What is VNXX?

- A virtual NXX arrangement is the assignment of a telephone number associated with an exchange area to a customer who is not physically located in that exchange area.

- By way of example, a VNXX carrier could assign a telephone number from a Caro, MI NXX to a VNXX carrier customer who is physically located Detroit, MI – or even Chicago, IL. When the CenturyTel customer in Caro dials that number, the call would be routed to Detroit, or Chicago, to be delivered to the VNXX carrier's customer located in this other city.

Impact of Virtual NXX arrangements on ILECs.

- The FCC's 2001 *ISP Remand Order* noted that "an ISP's end-user customers typically access the Internet through an ISP server located in the same local calling area." This observation is contradicted by the use of virtual NXX arrangements, which result in ISP servers being removed from the local community and relocated at some distant location outside of the local calling area.

- Whereas dial-up Internet traffic would normally be placed on an IP network at the ISP's server within the local calling area, under virtual NXX arrangements the traffic instead must be transported via the public switched network to the new distant ISP server location outside of the local calling area. This ties up interoffice toll network facilities normally reserved for traffic that is subject to access charges thus impeding consumers' ability to make long distance calls.

- Carriers have escaped paying the ILEC access charges by assigning a local virtual NXX number to their Internet Service Provider ("ISP") customers who are not physically located in the exchange or local calling area in which the call originates, and in some instances the ISP is even located outside of the state.

- Due to the frequency of, and long holding times associated with dial-up Internet calls, this quickly overburdens the interoffice trunks to the tandem switch. This raises the risk of toll blockage and would require the addition of interoffice trunking facilities to the tandem.

- The cost associated with the need for additional interoffice trunks would be the direct result of the decision of the CLEC and its ISP customer to employ a virtual NXX arrangement, as opposed to leaving the ISP servers in the local community. However, because of the assertion that access charges do not apply to any ISP-bound traffic, and the further assertion that CLECs are not required to establish points of connection in the local calling area, the entire cost burden of the additional trunks would be shifted completely to the ILEC.

- Normally when an ILEC adds interoffice trunks to the tandem, it does so to accommodate traffic that will pay its way. That is, the additional traffic will generate additional access revenue that will offset the additional costs. In the case of virtual NXX traffic, unless access charges apply, there would be no revenues to offset the additional costs. .

- Further, many factors can lead to a shift in the routing of VNXX traffic that would lead to new toll trunk blockages and stranded ILEC investment in trunks that are no longer used.

  - Porting of an ISP number to a new carrier,
  - Consolidation of ISP calls termination locations,
  - Mergers or acquisitions between ISPs, and/or
  - Users changing ISP providers due to better competitive offers.

VNXX ISP-bound traffic is interexchange in nature and should be subject to access charges.

- VNXX ISP-bound traffic that originates when an ILEC customer in one calling area (the calling party) calls a CLEC ISP customer located in another calling area (the called party) does not originate and terminate in the calling party's local calling area, is interexchange in nature, and therefore should be subject to access charges.

- With the widespread use of virtual NXX arrangements, the ISP's premises are no longer "typically" located in the same local calling area. This is especially true in rural areas where ISPs generally do not build a local point of presence. ISP end-user customers are now accessing the Internet through ISP facilities that often are located outside of the end-user's local calling area.

- If CLECs give their ISP customers a telephone number with an NXX that matches the exchange in which the ISP is located, ILECs would be properly compensated for use of their facilities in delivering interexchange traffic to that ISP. CLECs should not be allowed to deny the ILECs that cost recovery simply by changing the telephone number they assign to their ISP customer. This is what happens with virtual NXX. Nothing else changes.

The VNXX Carrier is the retail service provider for VNXX traffic.

- The "originating carrier pays" argument does not logically apply to any ISP traffic. Users are not making the local voice calls for which they are compensating their ILEC. Rather, users are *accessing a subscription data service* for which they are compensating the service owner- the ISP.

- The VNXX carrier is in a position to generate revenue from VNXX traffic. The VNXX carrier can charge its ISP customer for providing an inward toll-free dialing service that functions the same as traditional "800"–type services. The ILEC, on the other hand, is in no position to generate revenues from the VNXX traffic. The ILEC cannot begin charging its customers more because they can suddenly place calls to a called party that is located outside of their calling area. In any type of retail service provider pays approach, it is the VNXX carrier that is the retail service provider with regard to VNXX traffic and therefore it is the VNXX carrier that should bear the additional costs associated with that traffic.

VNXX disincents network investment, which ultimately impacts our customers

- VNXX providers are not investing in Michigan's network infrastructure. VNXX providers should be required to fairly compensate those companies that do invest in Michigan's infrastructure. Not all internet providers are doing business utilizing VNXX, and by allowing the issue to continue, there is economic harm to those ISPs who have invested in Michigan by putting their modems and equipment in the local calling areas. Protecting companies that invest and encouraging more investment were the driving forces for many key legislators during the drafting of the legislation.

- If infrastructure providers are not fairly compensated by all users of the network, the outcome is higher prices for basic local service customers and an eventual degradation of the quality of Michigan's telecom network. It is not in the public's interest to have *all* local service customers bear a cost burden that is imposed on the network due to the subscription choice of *some* local service customers. Using VNXX to financially benefit ISP and CLEC owners is done at the expense of those customers who do not subscribe to ISP service or to ISP service using the VNXX loophole.

The Michigan Legislature properly determined, after much input from all parties, that a call is not local if it is made to a called party who is not located within the geographic area of the caller's local calling area, which includes the adjacent local calling area.

- The Legislature gave parties two years to reconfigure their networks and business plans to implement this provision of the law.