

DT 00-223

Investigation as to Whether Certain Calls are Local

DT 00-054

**Independent Telephone Companies and Competitive
Local Exchange Carriers - Local Calling Areas**

**Order Staying Effectiveness of Order 24,080 and Addressing
Motions for Rehearing and Clarification**

O R D E R 24,116

January 24, 2003

On October 28, 2002, the New Hampshire Public Utilities Commission (Commission) issued Order No. 24,080, which contained our ruling on the common issues raised in three separate dockets: DT 99-081/085 (*Internet Traffic Treated as Local Traffic Subject to Reciprocal Compensation*); DT 00-001 (*Implementation of Number Conservation Methods*); and DT 00-054 (*Local Calling Areas between Independent Telephone Companies and Competitive Local Exchange Carriers*).

Pursuant to the provisions of RSA 541:3, timely motions for rehearing, reconsideration and clarification of portions of this order have been filed by the following parties: Global NAPs and KMC Telecom V (jointly); Level 3 Communications; the Joint ITCs; Verizon, WorldCom; and RNK Telecom. Subsequently, and as allowed by N.H. Code of

Admin Proc. Rule Puc 203.4(h), Verizon, AT&T Broadband, and Global NAPs filed motions opposing portions of other parties' motions for rehearing, reconsideration and clarification.

As set out in detail in Section I of Order No. 24,080, this docket addresses the issue of virtual NXX (VNXX) traffic, and the treatment and rating of VNXX traffic as local traffic, as well as inter-carrier compensation for VNXX traffic.

Order No. 24,080 determined that the Local Exchange Companies (LECs) wishing to carry information-access traffic outside of traditional local calling areas without incurring toll charges for the end user do so by using specific NXX blocks which will have statewide extended area service (EAS). *Slip Op.* at 53. Commission Staff was ordered to work with the North American Numbering Plan Authority (NANPA) and the LECs to arrange that specific NXX codes having statewide EAS be utilized for this purpose and be designated IANXX.

Given the number of parties that have raised questions or concerns about our decision, and the breadth and technical nature of those concerns, we have decided to stay the order, and provide an opportunity for Commission Staff to chair a technical session for parties to discuss

their concerns. Therefore, we will stay the May 1, 2003 effective date indefinitely and schedule technical sessions on February 11 and 12, 2003 for that purpose. During the stay, the interim bill-and-keep arrangement previously agreed to by the ITCs and the CLECs, and Verizon's interim agreement to refrain from billing transport and tandem transit, in place prior to the issuance of Order No. 24,080, shall continue. Staff is to file a report with the Commission two weeks after the technical sessions, on February 26, 2003, discussing whether any of the matters raised for rehearing, reconsideration or clarification have been resolved by agreement of the parties, the manner of such resolution, and what issues of fact or law raised by the rehearing motions remain unresolved. Once this report is filed, the Commission will determine whether a rehearing is necessary, and, if so, set forth its scope and decide whether additional evidence and testimony will be required.

At this time we make no findings on the merits of the various motions for reconsideration and rehearing. However, we will correct one aspect of Order No. 24,080 *nunc pro tunc*, and clarify certain other aspects of the order in order to facilitate efficient and productive technical discussions.

We correct the portion of Order No. 24,080 that appears to suggest that an ITC is responsible for transport and tandem transit costs for all traffic up to 5,000 minutes per month between itself and a CLEC. Our intent was that each ITC bear the cost of the transport and tandem transit for its originating traffic exchanged with any CLEC, until the sum of originating and terminating traffic exchanged with that CLEC exceeds 5000 minutes per month. Once the traffic exchanged between an ITC and a CLEC exceeds 5,000 minutes per month, the ITC and CLEC shall each pay one-half of the transport and tandem transit costs for all traffic originated by the ITC which terminates to that CLEC.

We clarify Order No. 24,080 as follows:

1. IANXX is not established for the purpose of conserving numbering resources, although IANXX may result in number optimization.
2. Establishing IANXX will avoid the need to employ the FCC's 3:1 ratio for determining whether traffic is ISP-bound because IANXX traffic will be known to be ISP-bound. The 3:1 ratio, which makes a reasonable presumption in the absence of more precise information rebutting the presumption, will apply to traffic that is not identified as ISP-bound by the use of IANXX.

3. As we indicated on page 3 of Order No. 24,080, the term "NXX block" is used as a term of convenience to indicate both NXX codes of 10,000 numbers and 1000-number blocks therein. We clarify that while NXX codes can be divided and pooled by 1000-number blocks, at this time those 1000-number blocks must have the same local calling area as the original NXX.

4. As discussed on page 55 of Order No. 24,080, traffic qualifies for IANXX assignment if it is delivered to an ISP for access to the Internet traffic. We clarify that it is not our intention to allow statewide local rate treatment of telephone calls that make use of the Internet.

5. Under the Telecommunications Act of 1996, New Hampshire Independent Telephone Companies (ITCs) are required to interconnect with competitive local exchange carriers (CLECs), although they are not currently subject to competition within their geographic territories. Order No. 24,080 does not mandate that ITCs establish a Point of Interconnection (POI) with CLECs. It does, however, allow for the seamless exchange of small amounts of traffic, providing a compensation arrangement until the traffic is of sufficient volume for parties to develop traffic exchange agreements.

6. Order No. 24,080 requires the re-rating of VNXX codes to CLEC POIs 30 days after the date that CLECs are required to complete their original certification of FX-like exchanges. The certification was to have been completed by May 1, 2003 and re-rating would have been required by June 1, 2003 had the order not been stayed.

7. The Order addresses three categories of VNXX calls: FX-like calls, which are calls to exchanges in which the carrier has at least one customer physically located in the exchange; IANXX calls, which comprise ISP-bound Internet traffic; and POI-rated calls, *i.e.*, all other (formerly VNXX) traffic. In the chart below, we clarify how different calls would be rated and reimbursed under Order No. 24,080.

	Calls to FX-Like NXX Rated To Rate Center Other Than POI		Calls to NXX Rated to POI Rate Center		Calls to IANXX
	NXX within LCA of FX-Like NXX	NXX outside LCA of FX-Like NXX	NXX within LCA of the POI	NXX outside LCA of the POI	Any 603 NXX
When Call Originated From					
Then Call is Rated as -	Local	Toll	Local	Toll	Local
Recip Comp Applies?	Y	N	Y	N	N
Access Charges Apply?	N	Y	N	Y	N

For example, using the chart above, when a call is originated from an exchange within the ILEC local calling area (LCA) of the rate center where an FX-Like NXX is assigned (meaning the CLEC has at least one customer physically located in that exchange); the call is rated as local, reciprocal compensation is paid and access charges are not paid although the call may be terminated to a CLEC customer physically located outside the local calling area. When a call is originated from an exchange outside the local calling area of the FX-Like NXX it is treated as a toll call; reciprocal compensation does not apply and access charges are paid. When a CLEC has no customer physically located in an exchange, the NXX will be assigned to the rate center where the POI is located. In this case, when a call is originated from a customer outside the LCA of the POI it is rated as toll.

8. The computation of the minutes of traffic between any single CLEC and any single ITC, composing the 5,000 minute threshold, shall include all traffic, including IANXX traffic.

9. Order No. 24,080 requires carriers to follow the FCC plan for access charges and reciprocal compensation for IANXX traffic. Payment for tandem transit and transport to a third party carrier is neither reciprocal compensation

nor an access charge. Our requirement for ITC payment of compensation to Verizon for tandem transit and transport does not conflict with our deference to the FCC's access and reciprocal compensation plans.

10. The role of the Model Traffic Exchange Agreement (TEA) is to enable collaboration on a difficult process with the benefit of a neutral third party facilitator. Once a model TEA is complete, parties may choose to adopt it, negotiate a different agreement, or continue to exchange traffic as ordered in Order No. 24,080 and corrected herein.

Based upon the foregoing, it is hereby,

ORDERED, that the parties and Staff shall meet for technical discussions beginning at 10:00 a.m. on February 11 and 12, 2003; and it is

FURTHER ORDERED, that on or before February 26, 2003, Staff shall report the outcome of the technical sessions as discussed above; and it is

FURTHER ORDERED, that Order No. 24,080 is clarified as detailed above; and it is

FURTHER ORDERED, that Order No. 24,080 is corrected, *nunc pro tunc*, to require that each ITC shall bear the cost of transport and tandem transit for originating traffic terminated to any CLEC until the sum of

the originating and terminating traffic exchanged between the ITC and the CLEC exceeds 5,000 minutes per month, at which time the ITC and CLEC shall evenly split the transport and tandem transit costs for all ITC-originated traffic terminated to the CLEC until a mutual traffic exchange agreement is signed by both parties; and it is

FURTHER ORDERED, that the effect of Order No. 24,080 as clarified and corrected herein, is hereby STAYED.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of January, 2003.

Thomas B. Getz
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary