

ATTACHMENT A

EMBARQ'S

STATEMENT OF DISPUTED ISSUES

Verizon Access (or "Verizon") has listed two issues as unresolved. Embarq provides its counter-statement to those issues that remain unresolved.

Issue 1: What compensation should apply to virtual NXX traffic under the ICA?

Embarq's Position: The physical locations of the calling party and called party, along with established local calling areas, determine call jurisdiction for compensation purposes. Rulings from the Ohio Commission and two federal appellate courts support this position.

The Public Utilities Commission of Ohio has adopted Embarq's position on this issue in an arbitration between Verizon and Embarq. The Ohio Commission concluded that it had the necessary authority to address the issue and, based on its rules and existing precedent, the Commission held:

Given that an ILEC must perform the exact same functions when originating a voice vNXX call and an ISP-bound vNXX call, the Commission sees no reason to treat these two types of calls differently, absent FCC preemption. Therefore, consistent with Local Service Guideline IV.C and previous Commission decisions, the Commission finds that, for ISP-bound vNXX calls that originate or terminate outside the ILEC's local calling area, the call is considered toll or interexchange. Compensation is based upon the originating or terminating party's access charges.

Because Verizon performs the same functions as an interexchange carrier when an Embarq end-user originates a VNXX call, and because Embarq performs the same

functions as an ILEC for that type of call, Verizon should pay Embarq originating access, but shouldn't receive any compensation from Embarq.

Issue 2: Where Verizon Access is not purchasing UNE loops or resold services from Embarq, should Embarq be permitted to charge Verizon Access a monthly charge for “maintenance and storage” of customers’ basic directory listing information that is based on Embarq’s tariffed rate for maintaining and storing additional directory listings?

Embarq’s Position: CLECs that are not purchasing UNE Loops or resold services should pay a monthly recurring charge equal to the MRC for maintenance and storage of a foreign directory listing, as reflected in Embarq’s Exchange Tariff.

The dispute between the parties involves a situation where Verizon is providing service to an end-user customer, geographically located in Embarq’s service territory, entirely over Verizon’s own facilities, totally bypassing Embarq’s network. Verizon wants its customers’ names and addresses included in Embarq’s directory and is demanding that Embarq provide this service free of charge.

Access to the directory database is not required as an unbundled network element and there is therefore no TELRIC-based pricing requirement. However, Embarq has agreed to provide Verizon access to that directory database pursuant to section 251(b)(3) of the Act for the purpose of entering Verizon’s subscribers’ information. The FCC determined this in the *Third Report and Order in CC Docket No. 96-115*, *Second Order on Reconsideration of the Second Report and Order in CC Docket No. 96-98*, and *Notice of Proposed Rulemaking in CC Docket No. 99-273*, FCC 99-227, Released September 9, 1999, see ¶160. The FCC did not order carriers to provide such access free of charge. Access is required to be nondiscriminatory only.

Embarq does maintain a directory database of listings that it forwards to the publisher for this purpose, incurs costs for maintaining that database, and recovers the cost of doing so from the services that it provides to its customers, both retail and wholesale. In retail situations, such

as residential service, the cost of providing a single white page listing is included in the retail rates. Likewise, in wholesale situations, the cost of providing a single white page listing is included in the wholesale rates (resale and UNEs). In neither case is the white page listing provided free. Because Verizon is not buying wholesale or retail services from Embarq, Verizon is not paying Embarq anything for providing the white page listing. Therefore, Embarq has requested that Verizon pay a separate, explicit charge for recovering the order entry and storage costs incurred by Embarq on Verizon's behalf. Verizon also has the option of going directly to the directory provider(s), thereby avoiding any charges from Embarq.

Embarq is entitled to charge a market-based rate for this service. Embarq believes that its tariffed rate for a residential foreign listing of \$2.25 is an appropriate proxy for the service Verizon wants Embarq to provide for free.

Embarq is providing Verizon access to the directory database consistent with what it provides to itself (retail customers) and to other carriers (wholesale customers), is therefore not discriminating against Verizon, and is meeting its section 251(b)(3) obligation.