

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matters of	)	
	)	
Bell Atlantic-Delaware, Inc., <i>et al.</i> ,	)	
	)	
Complainants,	)	
	)	
v.	)	File No. E-98-48
	)	
Frontier Communications Services, Inc., <i>et al.</i> ,	)	
	)	
Defendants.	)	
	)	
	)	
	)	
Bell Atlantic-Delaware, Inc., <i>et al.</i> ,	)	
	)	
Complainants,	)	
	)	
v.	)	File No. E-98-49
	)	
MCI Telecommunications Corp.,	)	
	)	
Defendant.	)	
	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted:** March 28, 2001

**Released:** April 5, 2001

By the Commission:

**I. INTRODUCTION**

1. In this Order, we resolve two supplemental complaints for damages filed on April 26, 2000 and June 23, 2000 by Bell Atlantic-Delaware, Inc., *et al.* (“Verizon” or “Complainant”)<sup>1</sup>

<sup>1</sup> The original named complainants in these actions were Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; Bell Atlantic-West Virginia, Inc.; New York Telephone Company; and New England Telephone and Telegraph Company. These companies now are doing business as Verizon Communications. See Complainant’s Initial Brief on the Reseller Issue, File No. E-98-48 (filed July 14, 2000) (“*Verizon Brief*”) at 1.

– one against Frontier Communications Services, Inc., *et al.* (“Global Crossing”)<sup>2</sup> and one against MCI Telecommunications Corporation (“MCI”)<sup>3</sup> (collectively, “Defendants”) – pursuant to section 208 of the Communications Act of 1934, as amended (“Act”).<sup>4</sup> We hold that under the rules and orders that are applicable to this case, the Defendants’ obligation to compensate Verizon for toll-free calls extends to calls that the Defendants hand off to local exchange carriers (“LECs”), but that the Defendants are not required to pay per-call compensation to Verizon for traffic that they hand off to switch-based resellers. However, in the latter situation, and upon Verizon’s written request, the Defendants must provide information to Verizon that enables it to identify any resellers responsible for compensation.

## II. BACKGROUND

2. Section 276 of the Act requires the Commission to “establish a per call compensation plan to ensure that all payphone service providers are fairly compensated for each and every completed intrastate and interstate call using their payphone.”<sup>5</sup> In response, we adopted the following payphone compensation rules:

### § 64.1300 Payphone Compensation Obligation.

- (a) Except as provided herein, every carrier to whom a completed call from a payphone is routed shall compensate the payphone service provider for the call at a rate agreed upon by the parties by contract.

\* \* \*

- (c) In the absence of an agreement as required by paragraph (a) of this section, the carrier is obligated to compensate the payphone service provider at a per-call rate of \$.24.<sup>6</sup>

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<sup>2</sup> The original named defendant was Frontier Corporation. Pursuant to a subsequent stipulation, Verizon amended its complaint to substitute Frontier Communications Services, Inc.; Frontier Communications International, Inc.; Frontier Communications of the West, Inc.; Frontier Communications-North Central Region, Inc.; Frontier Communications of New England, Inc.; and Frontier Communications of the Mid Atlantic, Inc. as defendants. These companies now are known collectively as Global Crossing.

<sup>3</sup> MCI now is doing business as WorldCom, Inc. This order is binding on all named parties and their successors-in-interest.

<sup>4</sup> 47 U.S.C. § 208. Section 208 gives a party the right to file a complaint with the Commission if the party believes that a common carrier acted, or failed to act, in contravention of the Act or a Commission rule or order.

<sup>5</sup> 47 U.S.C. § 276(b)(1)(A). Section 276 exempts emergency calls and telecommunications relay service calls for hearing disabled individuals from the per-call compensation requirement. *Id.*

<sup>6</sup> 47 C.F.R. § 64.1300(a), (c).

§ 64.1310 Payphone Compensation Payment Procedures.

- (a) It is the responsibility of each carrier to whom a compensable call from a payphone is routed to track, or arrange for the tracking of, each such call so that it may accurately compute the compensation required by Section 64.1300(a).<sup>7</sup>

3. Thus, when payphone users place toll-free calls that are routed to interexchange carriers (“IXCs”), the IXCs must compensate the payphone service providers (“PSPs”) for completed calls. The compensation system becomes more complicated, however, when IXCs sell space on their networks to other IXCs, known as “resellers.”<sup>8</sup> This is because an IXC and several resellers may carry a single payphone call before the call is transferred to a LEC for completion.

4. The Common Carrier Bureau ruled in the liability phase of these proceedings that the Complainants properly had certified their eligibility to receive per-call compensation, and, upon review, we upheld this determination.<sup>9</sup> At issue in this damages phase is which party – an IXC that first carries the call or a switch-based reseller that ultimately transfers the call to the LEC – is responsible for paying per-call compensation.<sup>10</sup> Also at issue is the scope of an IXC’s obligation to provide to a PSP tracking information regarding calls transferred to switch-based resellers.

### III. PROCEDURAL ISSUES

5. The Defendants maintain that because Verizon’s initial complaints in the liability phase of these proceedings did not raise explicitly the issue of whether a facilities-based reseller is responsible for payment of per-call compensation, supplemental complaints on this issue fail to

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<sup>7</sup> 47 C.F.R. § 64.1310(a).

<sup>8</sup> Resellers can be divided into two categories – “switchless” and “switch-based.” Switchless resellers simply rename the underlying IXC service. Switch-based (or “facilities-based”) resellers install their own switch to handle traffic.

<sup>9</sup> See *In the Matter of Bell Atlantic-Delaware, et al. v. Frontier Communications Services, Inc., et al.*, Memorandum Opinion and Order, 14 FCC Rcd 16050 (Com. Car. Bur. 1999), and *In the Matter of Ameritech Illinois, U S West Communications, Inc., et al., v. MCI Telecommunications Corporation*, Memorandum Opinion and Order, 14 FCC Rcd 18643 (Com. Car. Bur. 1999), *aff’d*, *In the Matter of Bell Atlantic-Delaware, et al., v. Frontier Communications Services, Inc., et al.*, Order on Review, 15 FCC Rcd 7475 (2000). Global Crossing has filed a Petition for Review of the Commission’s Order on Review in the United States Court of Appeals for the District of Columbia Circuit. See *Global Crossing Telecommunications, Inc. v. FCC*, Case No. 00-1204 (D.C. Cir.).

<sup>10</sup> As discussed *infra*, paragraph 7, we have determined that switchless resellers do not have the ability to track calls and, therefore, are not obligated to pay per-call compensation in the first instance (although IXCs subsequently can collect from such resellers per-call compensation that the IXCs have paid on the resellers’ behalf).

state a claim upon which relief may be granted.<sup>11</sup> We disagree. As an initial matter, MCI consented to Verizon's filing of a supplemental complaint for damages, and, along with Verizon, requested that we address the facilities-based reseller question.<sup>12</sup> Consequently, MCI has waived any objection to our consideration of the issue. In any event, we believe Verizon adequately raised the issue in its initial complaints. Specifically, in its complaint against Global Crossing, Verizon asked us to rule that "[Global Crossing] is required to make payments in full for all calls originated on [Verizon] payphones during the fourth quarter of 1997 and the first quarter of 1998, and to make future payments for upcoming quarters as required by the FCC rules."<sup>13</sup> Similarly, Verizon's complaint against MCI sought compensation for "every call it completes" from Verizon's payphones.<sup>14</sup> These broad requests pertain to *all* calls handled by the IXCs, including calls transferred to resellers. We decline to read Verizon's complaints in the restrictive manner Defendants propose.<sup>15</sup>

#### IV. ANALYSIS

6. The Commission initially addressed per-call compensation and call tracking issues in the *First Payphone Order*.<sup>16</sup> In that order, the Commission adopted a "carrier-pays" system for per-call compensation, concluding that "the primary economic beneficiary of payphone calls [*i.e.*, IXCs] should compensate the PSPs," and that "all IXCs that carry calls from payphones are required to pay per-call compensation."<sup>17</sup> In addition, the Commission held that a facilities-based carrier should pay compensation to the PSP "in lieu of a non-facilities based carrier that resells service."<sup>18</sup> A reseller that lacks its own facilities does not have the ability to track calls.<sup>19</sup>

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<sup>11</sup> MCI Answer to Amended Supplemental Complaint, File No. E-98-49 (filed June 30, 2000) ("*MCI Answer*"), ¶ 7; Global Crossing Supplemental Answer and Affirmative Defenses to Complainant's Amended Supplemental Complaint, File No. E-98-48 (filed May 16, 2000) ("*Global Crossing Answer*"), ¶ 24.

<sup>12</sup> Joint Request for Waiver to File Supplemental Complaint, File No. E-98-49 (filed Jan. 21, 2000) at 1.

<sup>13</sup> Revised Complaint, File No. E-98-48 (filed Sept. 4, 1998), ¶ 36.

<sup>14</sup> Complaint, File No. E-98-49 (filed July 15, 1998), ¶ 32-33.

<sup>15</sup> The Defendants identify additional procedural deficiencies in Verizon's Supplemental Complaints and argue that the complaints should be dismissed or denied as a result. *MCI Answer* at 6-7, 13-15; *Global Crossing Answer*, Part III at 2-5. See 47 C.F.R. § 1.720 (establishing general pleading requirements); 47 C.F.R. § 1.721(a) (establishing rules for format and content of complaints); 47 C.F.R. § 1.722(c) (establishing rules for requests for damages). We agree that Commission staff should have directed Verizon to amend its pleadings to correct the deficiencies. However, because the deficiencies have not compromised the Defendants' ability to address the legal issues raised in Verizon's complaints, and in order to expedite resolution of the cases, we will not require Verizon to amend its pleadings.

<sup>16</sup> See *In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Report and Order, 11 FCC Rcd 20541 (1996) ("*First Payphone Order*").

<sup>17</sup> *Id.*, 11 FCC Rcd at 20584, ¶ 83.

<sup>18</sup> *Id.*, 11 FCC Rcd at 20586, ¶ 86.

<sup>19</sup> *Id.*

Therefore, “in the interests of administrative efficiency and lower costs,” the Commission required facilities-based carriers to pay for calls received by their reseller customers and then, if they so chose, “to impose the payphone compensation amounts on [reseller] customers.”<sup>20</sup>

7. The *First Payphone Order* also established rules for tracking payphone calls. Specifically, the order stated that the “underlying, facilities-based carrier has the burden of tracking calls to its reseller customers,” that the facilities-based carrier “may recover that cost from the reseller, if it chooses,” and that the tracking obligation “parallel[s] the obligation of the facilities-based carrier to pay compensation.”<sup>21</sup>

8. A number of parties requested that the Commission reconsider or clarify the rules adopted in the *First Payphone Order*. In the *Order on Reconsideration*,<sup>22</sup> the Commission made the following clarification regarding the “carrier-pays” approach as it pertains to facilities-based carriers and non-facilities-based carriers:

Some IXCs argue ... that we should, concurrent with our conclusion that the primary economic beneficiary of a call should pay the requisite compensation to the PSP, require resellers to pay compensation for the calls they receive from payphones and to assume responsibility for the tracking of such calls. We continue to believe that it would be significantly burdensome for some parties, namely debit card providers, to track and pay compensation to PSPs on a per-call basis. We conclude, however, that we should clarify our conclusion in the *Report and Order* concerning which carriers are required to pay compensation and provide per-call tracking. We clarify that a carrier is required to pay compensation and provide per-call tracking for the calls originated by payphones if the carrier maintains its own switching capability, regardless if the switching equipment is owned or leased by the carrier .... If a carrier does not maintain its own switching capability, then, as set forth in the *Report and Order* and consistent with our clarification here, the underlying carrier remains obligated to pay compensation to the PSP in lieu of its customer that does not maintain a switching capability.<sup>23</sup>

9. Subsequently, in the *Coding Digit Waiver Order*,<sup>24</sup> the Common Carrier Bureau

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<sup>20</sup> *Id.*, 11 FCC Rcd at 20586, ¶¶ 86-87.

<sup>21</sup> *Id.*, 11 FCC Rcd at 20591-92, ¶ 100.

<sup>22</sup> See *In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Order on Reconsideration, 11 FCC Rcd 21233 (1996) (“*Order on Reconsideration*”).

<sup>23</sup> *Id.*, 11 FCC Rcd at 21277, ¶ 92.

<sup>24</sup> See *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996: AT&T Request for Limited Waiver of the Per Call Compensation Obligation*, Memorandum Opinion and Order, 13 FCC Rcd 10893 (Com. Car. Bur. 1998), petition for reconsideration and application for review pending on other grounds (“*Coding Digit Waiver Order*”).

further explained the obligations of IXC's to disclose information about switch-based resellers providing resold 800 service:

When facilities-based IXC's providing 800 service have determined that they are not required to pay compensation on particular 800 number calls because their switch-based resale customers have identified themselves as responsible for paying the compensation, the facilities-based carriers must cooperate with PSP's seeking to bill for resold services. Thus, a facilities-based carrier must indicate, on request by the billing PSP, whether it is paying per-call compensation for a particular 800 number. If it is not, then it must identify the switch-based reseller responsible for paying payphone compensation for that particular 800 number. Facilities-based IXC's and switched-based resellers may not avoid compensating PSP's by withholding the name of the carrier responsible for paying per-call compensation, thereby avoiding the requirements of the Payphone Orders and Section 276.<sup>25</sup>

10. Verizon and the Defendants espouse different interpretations of our rules and orders regarding per-call compensation and call tracking. According to Verizon, the IXC that first carries a call must track calls and pay per-call compensation in the first instance, and then the carrier may seek reimbursement from its facilities-based resellers.<sup>26</sup> Verizon characterizes the *Order on Reconsideration* and the *Coding Digit Waiver Order* as clarifying application of this general rule to certain switch-based resellers.<sup>27</sup> Specifically, Verizon views the *Coding Digit Waiver Order* as absolving the first facilities-based carrier of compensation responsibility only if a reseller identifies itself to the PSP as being responsible for paying per-call compensation and expressly undertakes to pay.<sup>28</sup>

11. Verizon also argues that not requiring the first facilities-based carrier to pay results in a compensation system that is unworkable for both PSP's and resellers.<sup>29</sup> According to Verizon, PSP's lack the information necessary to identify the reseller responsible for completing the calls and cannot determine if a call was in fact completed by a given reseller.<sup>30</sup> Furthermore, Verizon argues that, even with this information, PSP's will endure long delays before they are compensated for calls that involve a number of switch-based resellers.<sup>31</sup>

12. The Defendants, on the other hand, argue that the facilities-based reseller that

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<sup>25</sup> *Id.*, 13 FCC Rcd at 10916, ¶ 38.

<sup>26</sup> *Verizon Brief* at 3-4.

<sup>27</sup> *Id.* at 4.

<sup>28</sup> *Id.* at 3-9.

<sup>29</sup> *Id.* at 9-12.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at 9.

ultimately transfers the call directly to the LEC is the primary economic beneficiary of a call and therefore is responsible for compensation.<sup>32</sup> According to the Defendants, the *Order on Reconsideration* confirms this view, and the *Coding Digit Waiver Order* further clarifies that IXCs have a choice regarding switch-based resellers: either to pay per-call compensation for a particular 800 number; *or*, upon request of the billing PSP, to “identify the switch-based reseller responsible for paying payphone compensation for that particular 800 number.”<sup>33</sup> The Defendants contend that, rather than excusing IXCs from paying PSPs only when resellers identify themselves *to PSPs*, the *Coding Digit Waiver Order* allows IXCs not to pay when resellers advise IXCs that the resellers will undertake compensation obligations.<sup>34</sup>

13. Our rules and orders require the first facilities-based carrier (*i.e.*, the IXC first handling the traffic) to compensate PSPs for calls that it transfers directly to a terminating LEC. With respect to calls transferred to switch-based resellers, the first facilities-based carrier’s obligation is to identify the reseller responsible for paying per-call compensation. Whereas the *First Payphone Order* establishes a system whereby a PSP may collect from the first facilities-based carrier for all traffic carried over its switch, regardless of whether the traffic subsequently is handled by resellers,<sup>35</sup> the *Order on Reconsideration*, as clarified in the *Coding Digit Waiver Order*, states that the first facilities-based carrier’s responsibility is more limited. Specifically, the *Order on Reconsideration* places tracking and compensation obligations squarely on facilities-based carriers, including facilities-based resellers. And the *Coding Digit Waiver Order* makes clear that a first facilities-based carrier need only identify the switch-based reseller responsible for paying compensation.<sup>36</sup>

14. We reject Verizon’s contention that first facilities-based carriers have a duty to pay compensation for all traffic unless a reseller identifies itself *to Verizon*. The contention derives from the following sentence in the *Coding Digit Waiver Order*: “When facilities-based IXCs providing 800 service have determined that they are not required to pay compensation on particular 800 number calls because their switch-based resale customers have identified themselves as responsible for paying the compensation, the facilities-based carriers must cooperate with PSPs seeking to bill for resold services.”<sup>37</sup> If, as Verizon suggests, the Common Carrier Bureau intended to excuse a first facilities-based carrier from its payment obligation only when a reseller identifies itself *to the PSP*, the *Coding Digit Waiver Order* would have included

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<sup>32</sup> *Global Crossing Brief* at 5.

<sup>33</sup> *MCI Brief* at 8; *Global Crossing Brief* at 6-7 (citing *Coding Digit Waiver Order*, 13 FCC Rcd at 10916, ¶ 38).

<sup>34</sup> *MCI Brief* at 5-6; *Global Crossing Brief* at 6-7.

<sup>35</sup> See *First Payphone Order*, 11 FCC Rcd at 20591-92, ¶ 100.

<sup>36</sup> *Coding Digit Waiver Order*, 13 FCC Rcd at 10916, ¶ 38 (“Thus, a facilities-based carrier must indicate, on request by the billing PSP, whether it is paying per-call compensation for a particular 800 number. If it is not, then it must identify the switch-based reseller responsible for paying payphone compensation for that particular 800 number.”).

<sup>37</sup> *Id.*

that limitation expressly. Moreover, Verizon's interpretation of the relevant sentence in the *Coding Digit Waiver Order* makes no sense. There would be no need to require an IXC to assist a PSP in its attempts to bill for resold services if the PSP already had been advised of the reseller's identity. The logical construction of the language from the *Coding Digit Waiver Order* requires a first facilities-based carrier to pay unless the reseller has identified itself to the first facilities-based carrier as being responsible for paying compensation.

15. The parties also dispute what constitutes a proper request for tracking information under the law applicable to this case. The *Coding Digit Waiver Order* specifies that "a facilities-based carrier must indicate, on request by the billing PSP, whether it is paying per-call compensation for a particular 800 number. If it is not, then it must identify the switch-based reseller responsible for paying payphone compensation for that particular 800 number."<sup>38</sup> We likewise conclude that, in order to receive tracking information, a PSP must inquire in writing whether a facilities-based IXC will be paying per-call compensation relating to a particular toll-free number.<sup>39</sup> If the IXC will not be the paying party because it transferred the call to a switch-based reseller, it is incumbent upon the IXC at that juncture to identify the reseller. Stated differently, once a PSP issues a written request for payment, the facilities-based IXC must provide tracking information.<sup>40</sup>

16. Verizon argues that the alternative compensation system it has proposed would better facilitate collection of payphone compensation. However, the three orders on this issue – the *First Payphone Order*, the *Order on Reconsideration*, and the *Coding Digit Waiver Order* – establish the procedures under which PSPs, carriers, and switch-based resellers must operate. We are mindful that the Commission has been asked to clarify or revise existing regulations governing

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<sup>38</sup> *Coding Digit Waiver Order*, 13 FCC Rcd at 10916, ¶ 38. Although the *Coding Digit Waiver Order* addressed a particular subset of compensable calls (*i.e.*, 800 numbers), the Bureau relied on paragraph 92 of the *Order on Reconsideration* in reaching its conclusion regarding tracking obligations. *Order on Reconsideration*, 11 FCC Rcd at 21277, ¶ 92. That paragraph pertains to compensable calls in general, not simply 800 numbers. *Id.* Therefore, we believe the holding of the *Coding Digit Waiver Order* provides an interpretation of the *Order on Reconsideration* that is applicable to all calls that are eligible for per-call compensation under the Commission's rules and orders.

<sup>39</sup> In this connection, a PSP's submission of payphone numbers pursuant to 47 C.F.R. § 64.1310(e) would be considered a written inquiry regarding an IXC's intention to pay compensation.

<sup>40</sup> In its supplemental brief addressing the reseller issue, Verizon alleges for the first time that Global Crossing delayed notifying Verizon of the proper resellers, thereby engaging in an unreasonable practice in violation of section 201(b) of the Act, 47 U.S.C. § 201(b). *Verizon Brief* at 6. We decline to address this allegation. In the Enforcement Bureau's order requesting additional briefing, the Enforcement Bureau instructed the parties to brief the legal issues surrounding the reseller issue raised in the earlier pleadings. *See* Letter from David A. Strickland (Attorney-Advisor, Market Disputes Resolution Division, Enforcement Bureau) to John M. Goodman and Gilbert E. Geldon (Counsel for Verizon), Michael J. Shortley, III and Martin T. McCue (Counsel for Global Crossing), and Danny E. Adams and Steven A. Augustino (Counsel for Global Crossing), File No. E-98-48 (dated June 27, 2000) at 1; Letter from David A. Strickland (Attorney-Advisor, Market Disputes Resolution Division, Enforcement Bureau) to John M. Goodman and Gilbert E. Geldon (Counsel for Verizon), and J. Carl Wilson and Lisa B. Smith (Counsel for MCI), File No. E-98-49 (dated June 22, 2000) at 3. The supplemental briefing stage was not the proper time for the parties to assert new claims.

the per-call compensation scheme on a going-forward basis.<sup>41</sup> But because this issue has come before us as part of a section 208 complaint proceeding regarding past behavior, we are constrained to interpret our current regulations and orders.

## V. COMPUTATION OF DAMAGES

17. Verizon is entitled to compensation from the Defendants for each call the Defendants transferred to a terminating LEC. Additionally, upon Verizon's written request, the Defendants must provide information that will allow Verizon to track calls that were transferred to facilities-based resellers. Therefore, pursuant to the Commission's formal complaint rules,<sup>42</sup> we direct Global Crossing and MCI to pay Verizon the appropriate per-call compensation rate, plus interest,<sup>43</sup> for each completed call (starting in the fourth quarter of 1997 through the present) made from a Verizon payphone to Global Crossing's or MCI's network, respectively, and to provide Verizon adequate tracking information regarding calls that were transferred to resellers.<sup>44</sup>

18. Global Crossing requests that we allow it to offset alleged overpayments to Verizon against any damages it owes,<sup>45</sup> because it already has paid some per-call compensation at the rate of \$0.284 per call.<sup>46</sup> However, the formal complaint rules specifically prohibit the adoption of a damages computation method that incorporates an offset for a claim of a defendant against a complainant.<sup>47</sup> Therefore, we deny Global Crossing's request to offset alleged overpayments to Verizon.

19. Within 30 days of the release of this Order, the parties must file with the

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<sup>41</sup> See *Public Notice, Common Carrier Bureau Seeks Comment on the RBOC/GTE/SNET Payphone Coalition Petition for Clarification Regarding Carrier Responsibility for Payphone Compensation Payment*, DA 99-730 (Com. Car. Bur. rel. Apr. 15, 1999) at 1.

<sup>42</sup> 47 C.F.R. 1.722(d)(4).

<sup>43</sup> The parties shall compute interest on the principal at 11.25 percent per year. See *In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Third Report and Order, and Order on Reconsideration of the Second Report and Order, 14 FCC Rcd 2545, 2631, ¶ 189 (1999) ("*Third Report and Order*"). Our use of the 11.25 percent interest rate is unique to cases in which IXCs are late in making payments to PSPs, and is not necessarily applicable in other contexts.

<sup>44</sup> The per-call compensation rate for the period from October 7, 1997 to April 20, 1999 is \$0.238. See *Third Report and Order*, 14 FCC Rcd at 2635, ¶196. The per-call compensation rate for the period from April 21, 1999 forward is \$0.24. 47 C.F.R. § 64.1300(c). See *American Public Communications Council v. FCC*, 251 F.3d 51 (D.C. Cir. 2000) (upholding the Commission's determination that \$0.24 is the proper rate for per-call compensation for "dial around" coinless calls made from payphones).

<sup>45</sup> *Global Crossing Answer*, Part III at 8, n.24.

<sup>46</sup> *Global Crossing Answer*, ¶ 25.

<sup>47</sup> 47 C.F.R. § 1.722(d)(4). See *In the Matter of Implementation of the Telecommunications Act of 1996, Amendment of Rules Governing Procedures to Be Followed When Formal Complaints Are Filed Against Common Carriers*, Report and Order, 12 FCC Rcd 22497, 22581, ¶ 194 (1997).

Enforcement Bureau a joint statement that does one of the following: (1) details the parties' agreement as to the amount of damages, computed in accordance with this Order; (2) states that the parties are continuing to negotiate in good faith and requests that the parties be given an extension of time to continue such negotiations; or (3) details the bases for any continuing dispute and the reasons why no agreement can be reached.<sup>48</sup>

## VI. CONCLUSION AND ORDERING CLAUSES

20. For the reasons stated above, we hold that the Commission's rules require the Defendants to compensate Verizon for toll-free calls transferred to terminating LECs, but do not require the Defendants to compensate Verizon for traffic transferred to switch-based resellers. Rather, with respect to the latter traffic, the Defendants must provide Verizon information that enables it to identify resellers responsible for compensation.

21. Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i), 4(j), 208, and 276 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 208, and 276, and sections 0.111, 0.311, 1.722, 64.1300, and 64.1310 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311, 1.722, 64.1300, and 64.1310, that Verizon and the Defendants must file a joint statement consistent with this Order within thirty (30) days after the Order is released.<sup>49</sup>

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas  
Secretary

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<sup>48</sup> 47 C.F.R. 1.722(d)(4).

<sup>49</sup> See 47 C.F.R. § 1.722(d).