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June 13, 2003

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St., SW
Washington, D.C. 20554

Re: CC Docket 01-92

Dear Ms. Dortch:

On June 12, 2003, Neal Bellamy, John Goodman, and the undersigned, on behalf of Verizon, met with Tamara Preiss, Steve Morris, Victoria Schlesinger, and Kathleen O'Neil of the Pricing Policy Division to discuss the above captioned proceeding. Verizon reiterated the positions it has already placed in the record in this proceeding. The attached documents were used during the meeting.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Joseph Mulieri".

Attachments

cc: T. Preiss
S. Morris
K. O'Neil
V. Schlesinger

Unified Intercarrier Compensation Transit Traffic Obligations

CC Docket No. 01-92



June 12, 2003

There is no obligation to provide transit service



- ♦ **While Section 251(a)(1) of the Act requires Verizon to interconnect with other carriers to accept that carrier's originated local traffic that is to be delivered to Verizon's end-users, nothing in the Act requires Verizon to accept and transport traffic destined for a third party carrier.**
- ♦ **Because Section 251 does not require an ILEC to provide transit service, an ILEC voluntarily offering transit service is not constrained by TELRIC pricing rules – the service can be offered at market-based prices.**
- ♦ **An ILEC voluntarily offering transit service is not required to pay reciprocal compensation to a third party when delivering transit traffic.**

FCC has repeatedly found that ILECs are not required to provide transit service



- ◆ In the Virginia Arbitration Order the Bureau found at para 117:

We reject AT&T's proposal because it would require Verizon to provide transit service at TELRIC rates without limitation. While Verizon as an incumbent LEC is required to provide interconnection at forward-looking cost under the Commission's rules implementing section 251(c)(2), **the Commission has not had occasion to determine whether incumbent LECs have a duty to provide transit service under this provision of the statute, nor do we find clear Commission precedent or rules declaring such a duty. In the absence of such a precedent or rule, we decline, on delegated authority, to determine for the first time that Verizon has a section 251(c)(2) duty to provide transit service at TELRIC rates. Furthermore, any duty Verizon may have under section 251(a)(1) of the Act to provide transit service would not require that service to be priced at TELRIC.** (emphasis added.)

FCC has repeatedly found that ILECs are not required to provide transit service



In para. 100 of the FCC's 271 order for DC/MD/WV, the FCC stated that VZ:

"is not required to develop interconnection arrangements for facilities-based competitive LECs with third-party carriers pursuant to our rules implementing section 251(b)(3)."

This further expands the finding in the Virginia Arbitration Order that ILECs have no duty to provide transit service under section 251(c)(2).

Similarly in *TSR Wireless LLC v. US West Communications, INC.*, the Commission held that transit service was not an interconnection service for which UNE pricing was appropriate.

FCC has repeatedly found that ILECs are not required to provide transit service



In *Answer Indiana v. Verizon Communications*, the FCC addressed the issue of “transiting traffic.” In the case, Answer Indiana alleged that GTE North violated section 51.703 of the FCC’s rules by charging Answer Indiana for terminating traffic that transits GTE North’s network. The FCC stated that:

[A] CMRS provider (such as Answer Indiana) is not required to pay an interconnecting LEC (such as GTE North) for traffic that terminates on the CMRS provider’s network if the traffic originated on the LEC network. As we stated in the *TSR Wireless Order*, however, an interconnecting LEC may charge the CMRS carrier for traffic that transits across the interconnecting LEC’s network and terminates on the CMRS provider’s network, if the traffic did not originate on the LEC’s network. In the *TSR Wireless Order*, we found that . . . although our rules bar a LEC from charging another carrier for the delivery of traffic from the LEC’s own customers, a LEC could charge a CMRS carrier for the transport of third-party originated traffic that traversed the LEC’s network on its way to the CMRS carrier’s network.

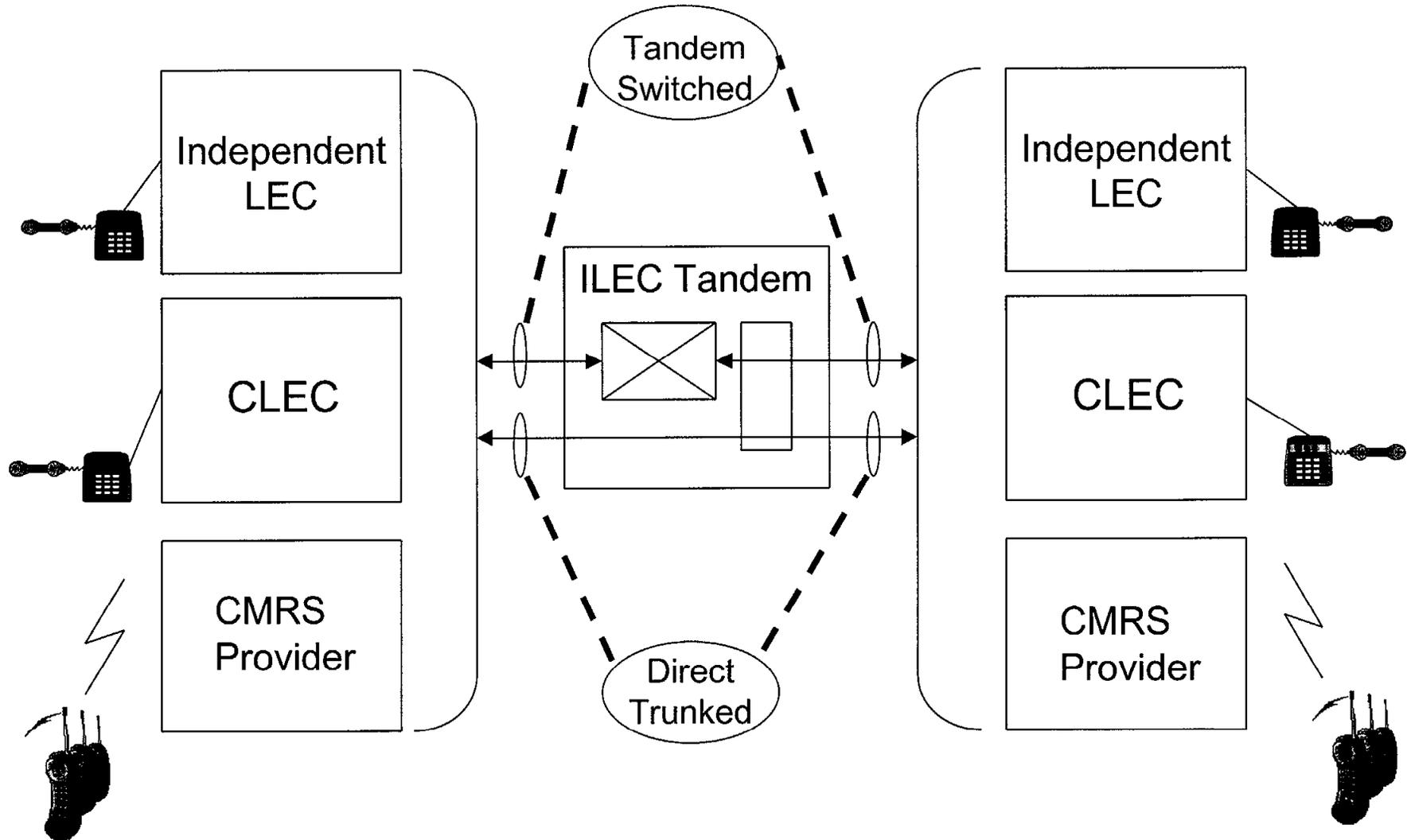
In coming to this conclusion, the FCC relied on the *Local Competition Order* where it required paging carriers to “pay for transiting traffic, that is, traffic that originates from a carrier other than the interconnecting LEC but nonetheless is carried over the LEC network to the paging carrier’s network.”

Conclusion



- ♦ **Commission action is needed to resolve this near-term issue now.**
 - The Commission should make clear that ILECs are not obligated to provide transit traffic services
 - And if they chose to provide this service, they are not constrained to use TELRIC pricing.
 - A DS1 capacity limit on tandem switched transit traffic prevents tandem exhaust and is in the public interest.

Typical transit traffic arrangement



**Unified Intercarrier Compensation
Virtual NXX Codes
CC Docket No. 01-92**



June 12, 2003

Central office code abuse must be stopped now



- ◆ **CLECs assign NXXs to ILEC rate centers for use by customers located in far-distant rate center**
- ◆ **Based on their geographic endpoints, these calls are not local calls**
- ◆ **For these interexchange calls:**
 - Originating LEC receives no revenue from their end users because the calls appear to be local
 - CLECs avoid access charge obligations to originating LEC
 - Originating LEC often must transport the traffic to distant points
 - CLEC bill originating LEC for reciprocal compensation

CLEC services are toll substitute services



◆ US LEC

- **Local Toll Free.** “Local Toll-Free service allows your customers in another city to make a local call to you. US LEC's Local Toll-Free service lets you establish local phone numbers across the US LEC footprint. This unique inbound calling service allows anyone to place a "free" local call to you from anywhere within US LEC's territory, with you picking up the charges at a lower cost.”
- See, <http://www.uslec.com/>

◆ Pac-West Telecomm, Inc.

- **ISP Services.** “Pac-West has the most rate centers in the western U.S., with 500 rate centers in California alone. We are the only telephone company that can provide local access numbers from 100% of Pacific Bell and GTE service areas in California.”
- See, <http://www.pacwest.com/isps/isps/services.cfm#isdn>

CLEC services are toll substitute services (continued)



◆ Focal Communications Corporation

- **Multi-Exchange Service** “Focal's Multi-Exchange Service aggregates traffic from across a LATA and delivers it to a Focal circuit. Traditionally an ISP has had to either build its own network to serve an entire LATA or create a Point of Presence (POP) in all local calling areas, which is costly and labor-intensive. Focal's service allows ISP's to cover an entire LATA using a single POP.”
- See, http://www.focal.com/prod_serv/multi_exchange.html

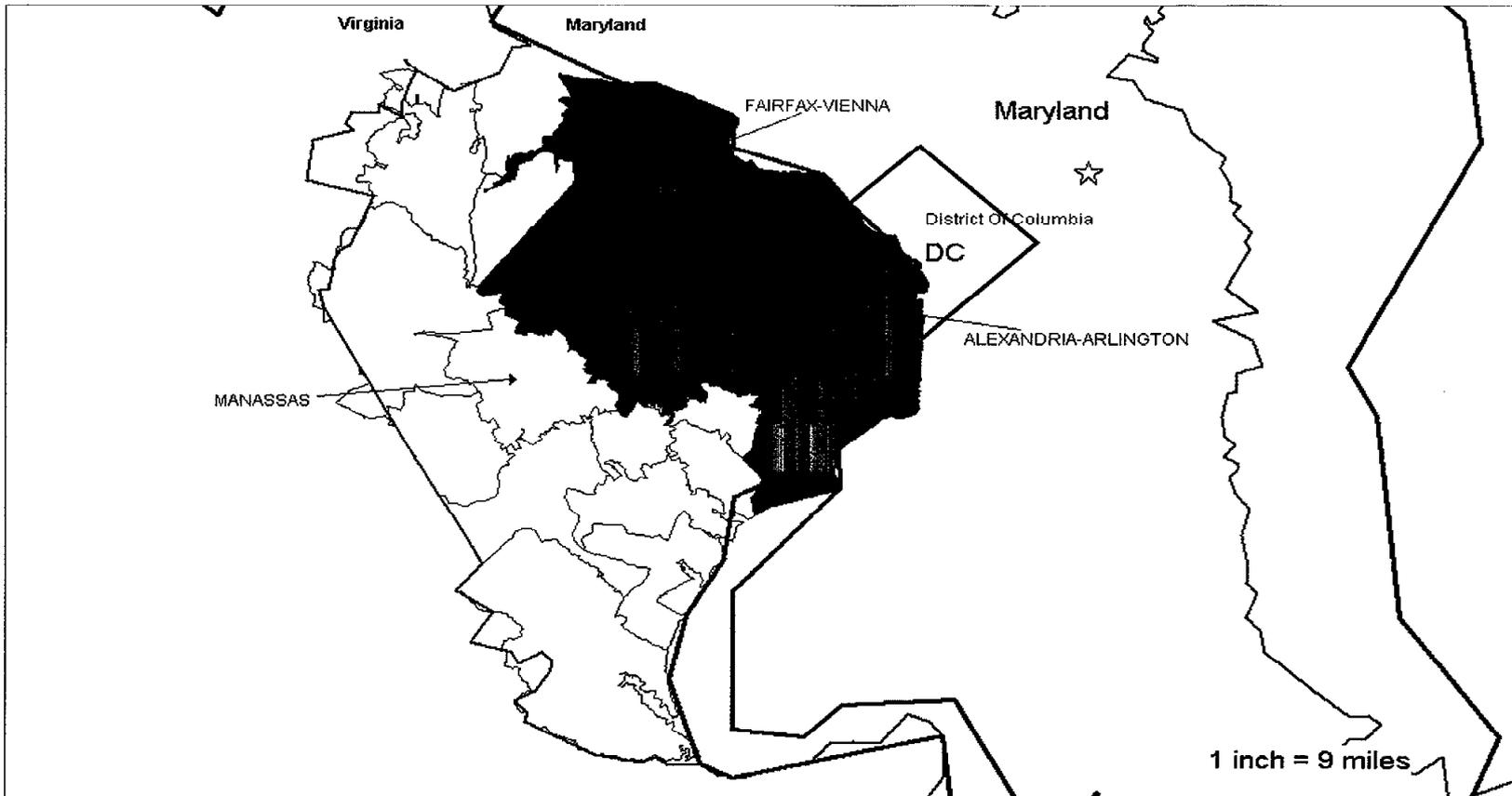
◆ Time Warner Telecom.

- **Voice Services – Multi-Location Solutions** – “Time Warner Telecom customers can expand their markets with little or no equipment investment. Historically referred to as 'foreign exchange' service, these products allow our customers to obtain switched service in distant areas or even other cities without the need for a physical presence in those cities.”
- See, <http://www.twtelecom.com/>

Virginia example



Starpower Switch Location and Service Area in Virginia

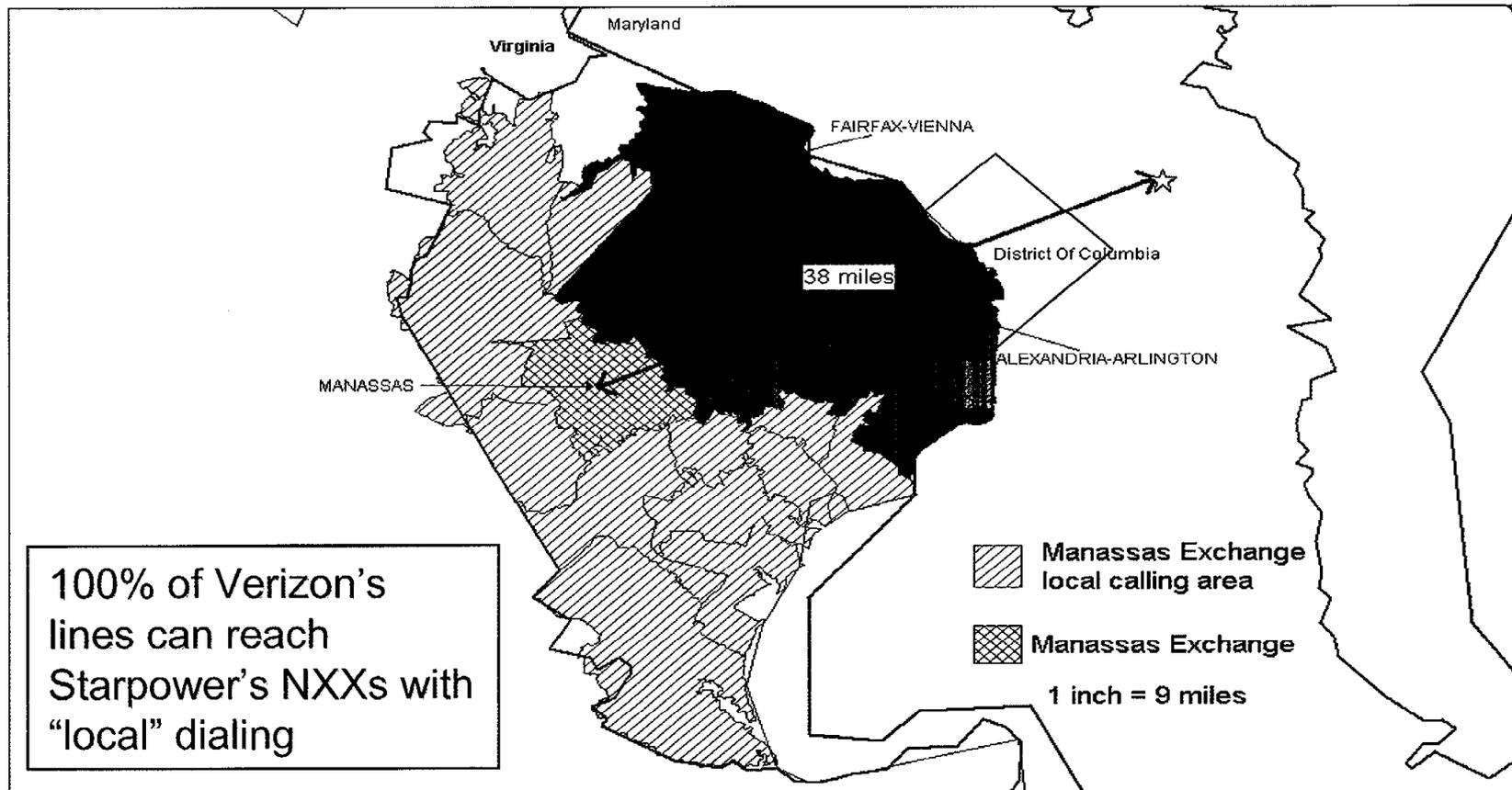


- ☆ Starpower Switch
- Verizon Exchanges with Starpower NXXs assigned
- Verizon Exchanges without Starpower NXXs assigned

Virginia example continued



Starpower Switch Location and Service Area in Virginia



- ☆ Starpower Switch
- Verizon Exchanges with Starpower NXXs assigned
- Verizon Exchanges without Starpower NXXs assigned

The Commission must act now to eliminate CO code abuse



- This is a contentious issue in virtually every state arbitration proceeding
- States have taken drastically different positions on these issues resulting in a crazy quilt of regulation
- The abuse results in uneconomic signals that draw market entrants with unsound business plans at the expense of true competition
 - “We recognize that the existing intercarrier compensation mechanism for the delivery of this traffic, in which the originating carrier pays the carrier that serves the ISP, has created opportunities for regulatory arbitrage and distorted the economic incentives related to competitive entry into local exchange and exchange access market.” (See, ISP Remand Order at 2)

The Commission can act now to eliminate CO code abuse by:



- ♦ Making clear that the originating LEC is not required to pay reciprocal compensation for these non-local calls, but rather should be compensated for this interexchange traffic.

and

- ♦ Requiring carriers to offer points of interconnection within the rate centers where they have assigned NXX codes. This will alleviate originating LEC having to transport these calls beyond their rate centers to far distant locations.

or

- ♦ Compensate the originating LEC for delivering these calls to the distant routing points the code holder has selected.

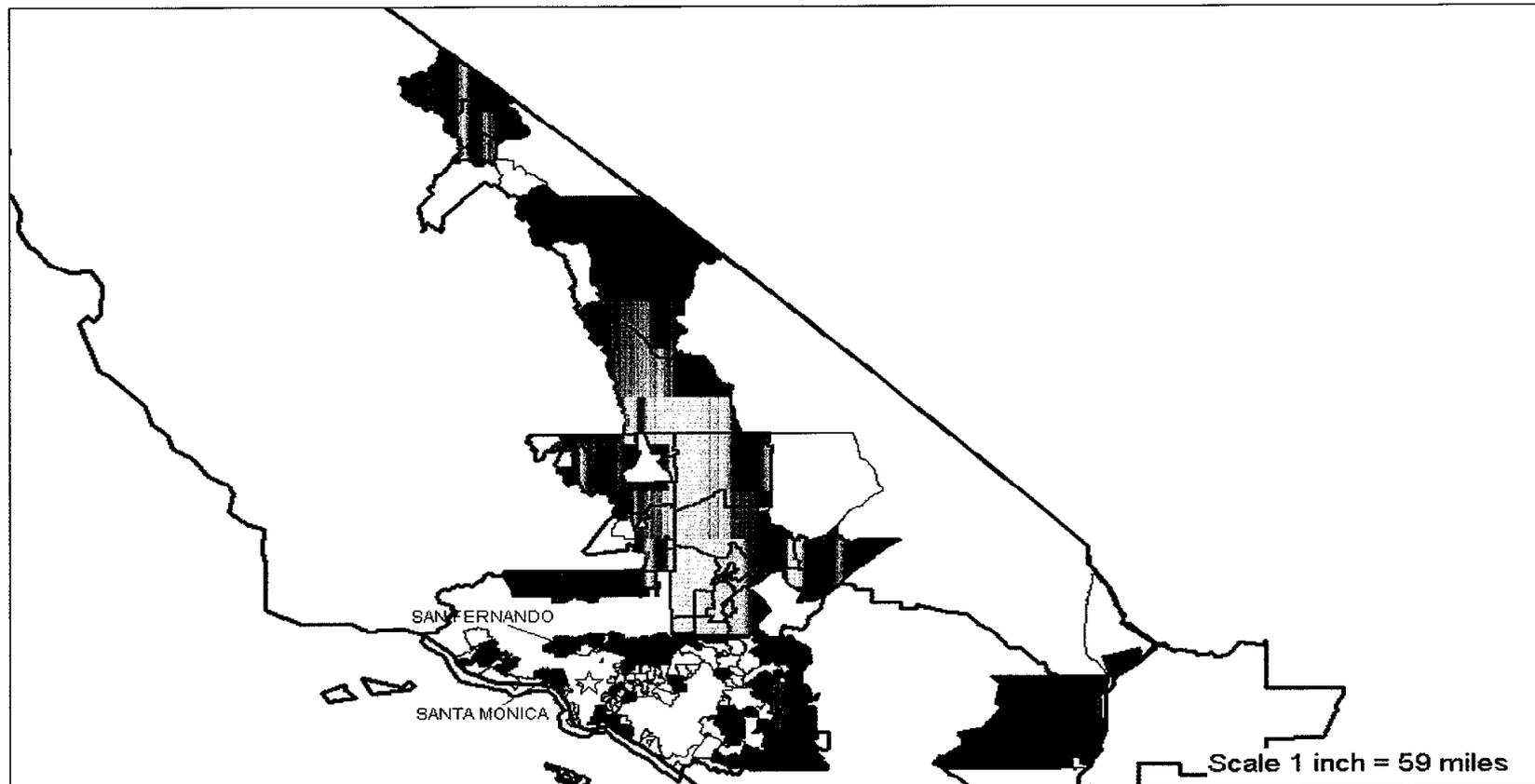
Additional Examples



California example



FOCAL Switch Location and Service Area in LA, Calif

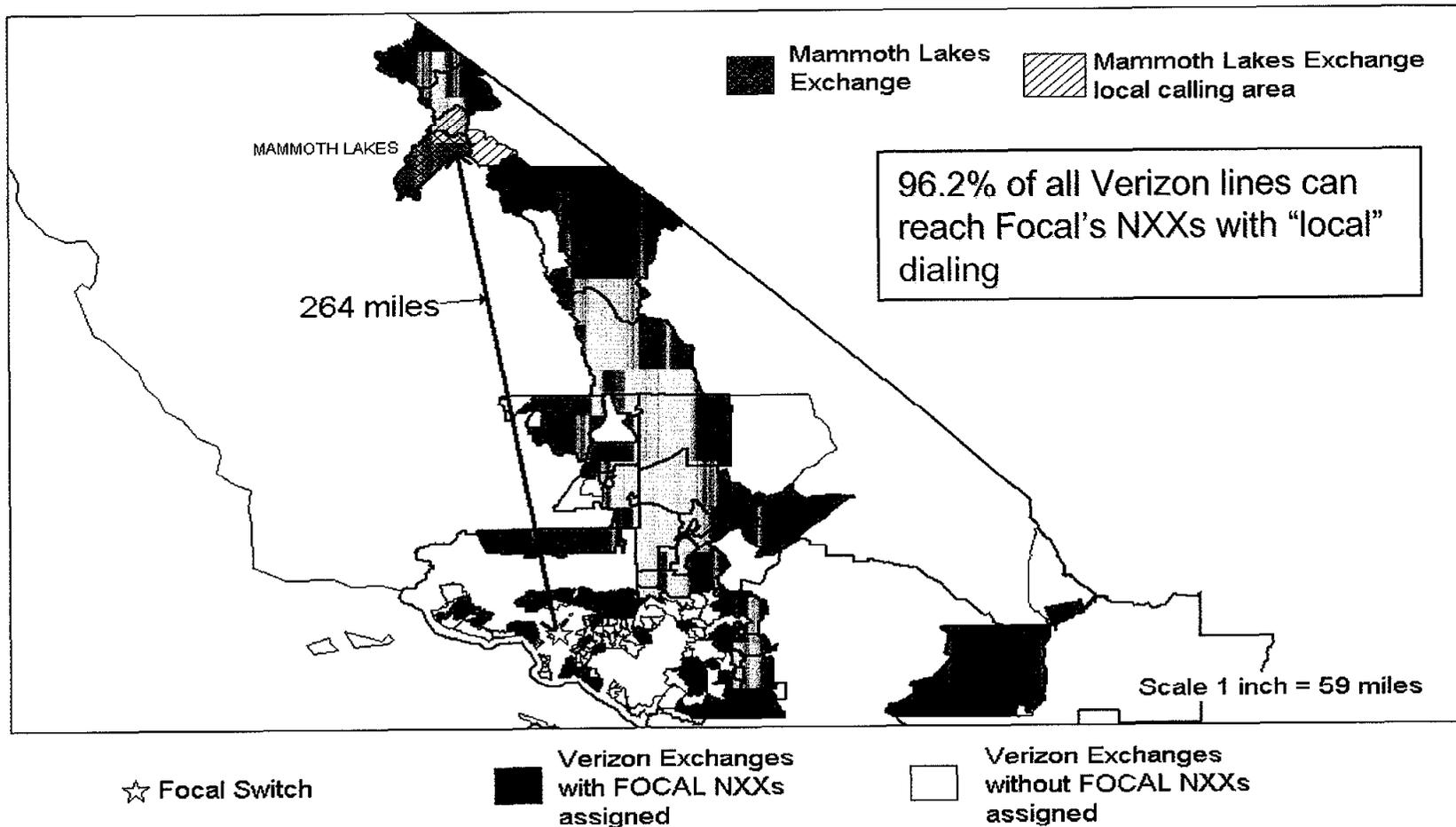


- ☆ Focal Switch
- Verizon Exchanges with FOCAL NXXs assigned
- Verizon Exchanges without FOCAL NXXs assigned

California example continued



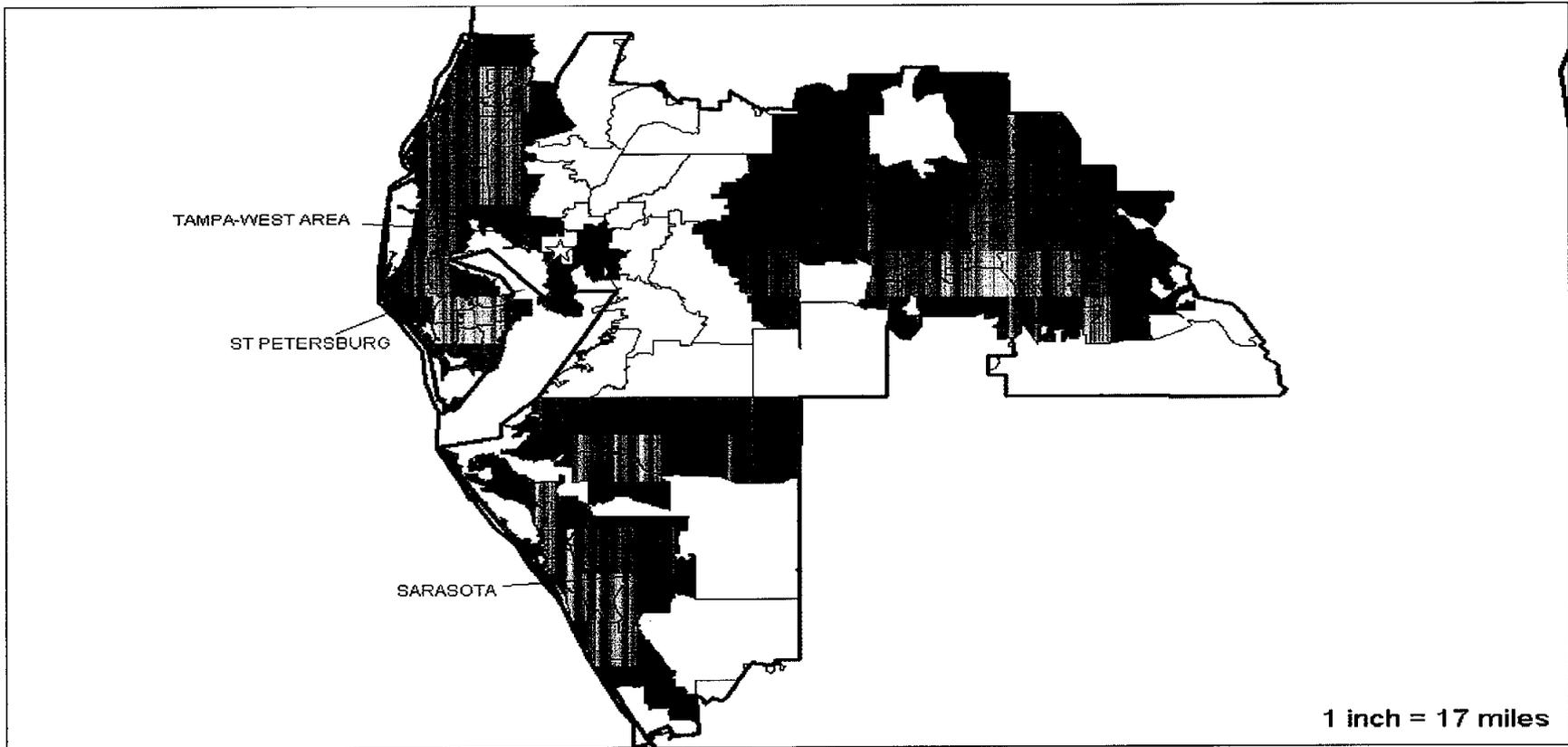
FOCAL Switch Location and Service Area in LA, Calif



Florida example



US LEC Switch Location and Service Area in Tampa, Florida



☆ US LEC Switch

■ Verizon Exchanges
with US LEC NXXs
assigned

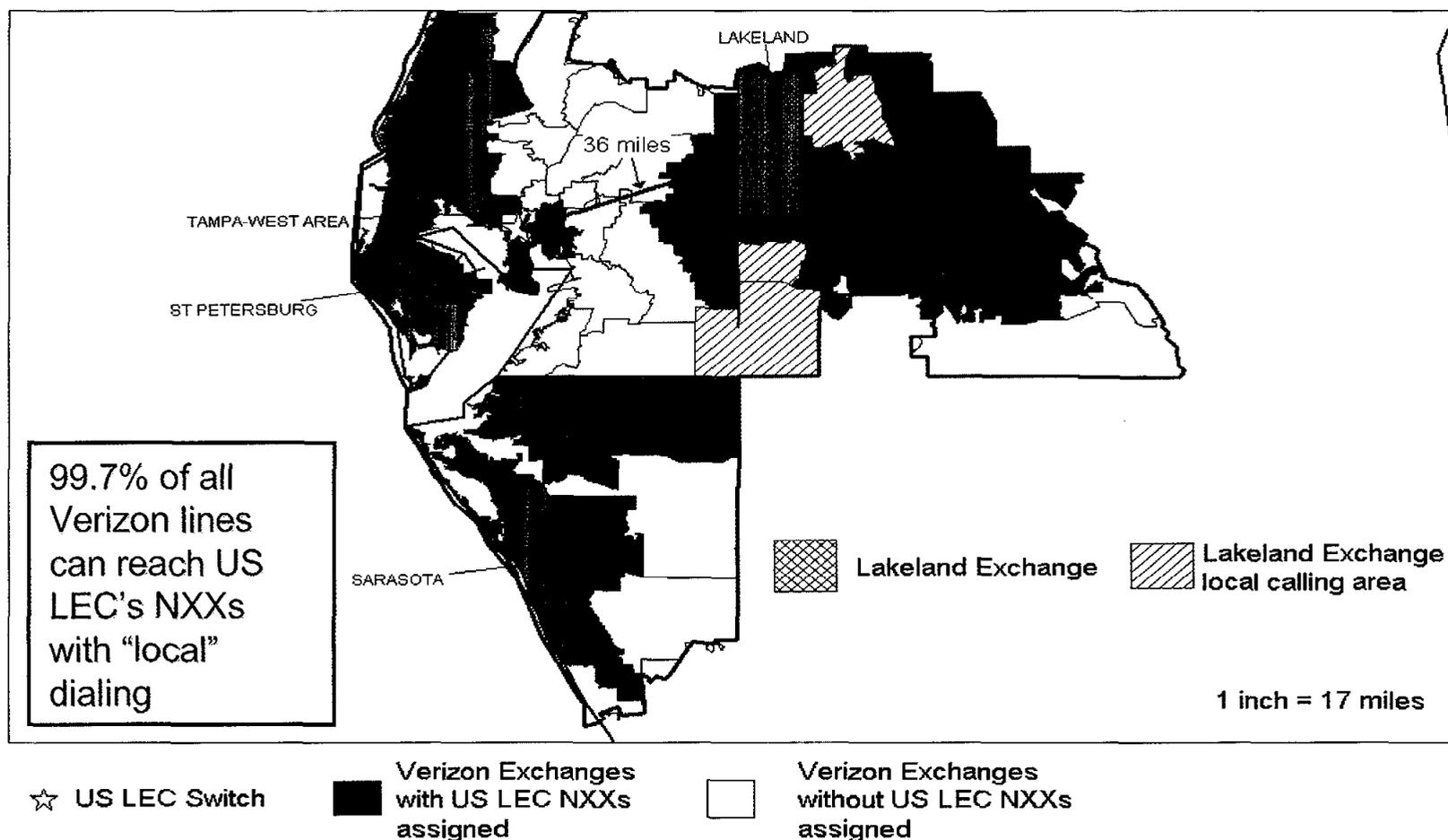


□ Verizon Exchanges
without US LEC NXXs
assigned

Florida example continued



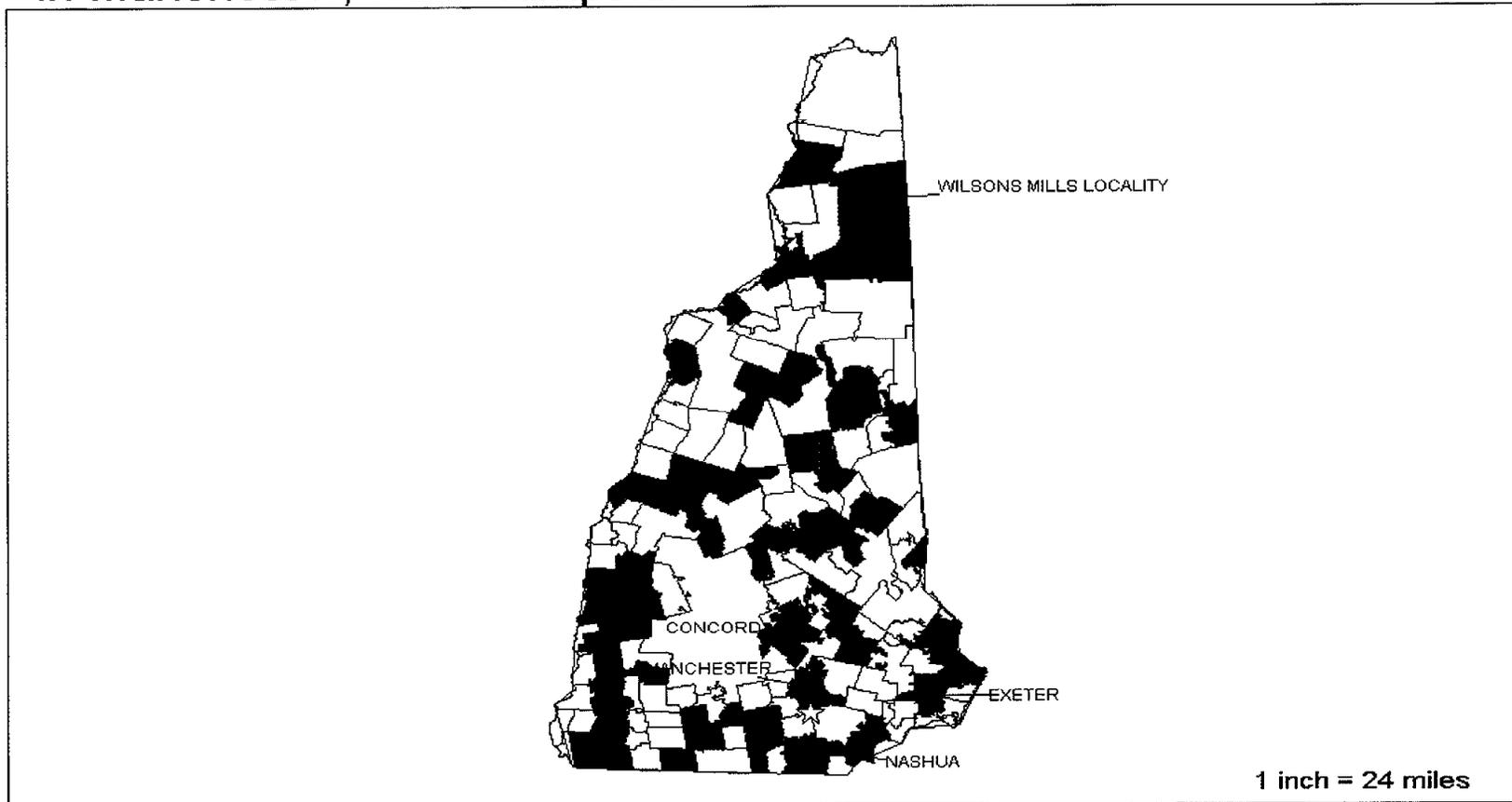
US LEC Switch Location and Service Area in Tampa, Florida



New Hampshire example



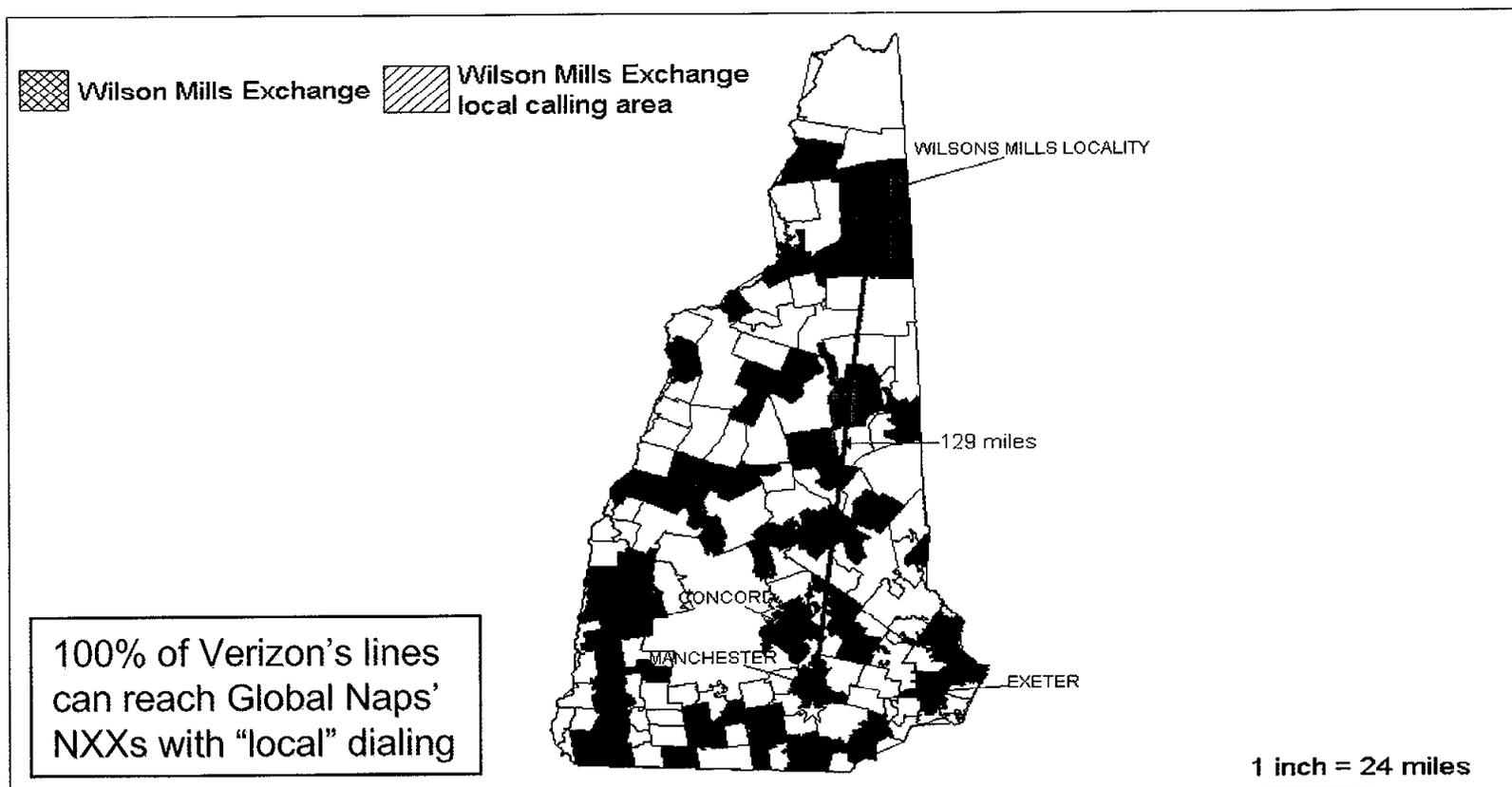
Global Naps Switch Location and Service Area in Manchester, New Hampshire



- ☆ Global Naps Switch
- Verizon Exchanges with Global Naps NXXs assigned
- Verizon Exchanges without Global Naps NXXs assigned

New Hampshire example continued

Global Naps Switch Location and Service Area in Manchester, New Hampshire



Vonage's non-traditional use of Central Office Codes



"With Vonage, you are no longer tied to your "local area code". You can select any Area Code you want from our list of available area codes. This means even if you live or work in New York, you can have a California area code."

"Another benefit of the technology is that it can enable carriers to avoid millions of dollars in phone-connection fees because the calls are treated as unregulated data traffic instead of fee-based voice traffic."

"There is one drawback for people living outside the United States, which is that Vonage is available only with a U.S. telephone number. That doesn't mean you can't use it from outside the United States. You can, and I have been using it very successfully from France. But your base phone number - your "home" number - will be in the United States."

"You also get to choose your home area code. For example, if you have friends and relatives in the New York area, you can choose to have your number in the 212 area code so those callers can make a local call to reach you. Or you can be in the 415 area code for San Francisco or 213 for Los Angeles. At the moment, Vonage has half of the U.S. area codes covered, and it is adding more."

See, www.vonage.com