



Qwest
607 14th Street NW, Suite 950
Washington, DC 20005
Phone 202.429.3120
Fax 202.293.0561

Melissa E. Newman
Vice President-Federal Regulatory

EX PARTE

FILED ELECTRONICALLY VIA ECFS

January 27, 2005

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Room TW-A325
Washington, DC 20554

**RE: CC Docket No. 99-68, Intercarrier Compensation for ISP-Bound Traffic;
CC Docket No. 01-92, Developing a Unified Intercarrier Compensation Regime**

Dear Ms. Dortch:

On January 25, 2005, Melissa Newman, in separate meetings, met with Scott Bergmann, Legal Advisor to Commissioner Adelstein, and Jennifer Manner, Legal Advisor to Commissioner Abernathy, in the above-captioned dockets.

We discussed the attached document in these meetings.

Sincerely,

/s/ Melissa E. Newman

Attachment

Copy to:
Jennifer Manner (Jennifer.manner@fcc.gov)
Scott Bergmann (Scott.Bergmann@fcc.gov)

**Intercarrier Compensation,
VNXX
&
Transit Traffic
ex parte
January/February 2005**

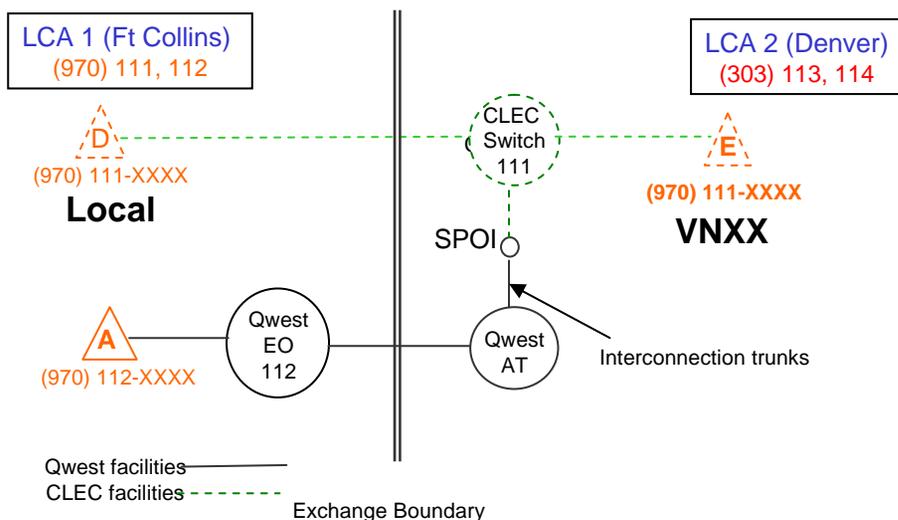
Intercarrier Compensation *Ex Parte*

POSITION AND RECOMMENDATIONS

- ◆ Qwest is supportive of the FCC moving forward with final resolution to this issue.
 - ▶ Qwest supports the Edge of the Network concept.
 - ▶ Qwest supports Bill and Keep as a compensation mechanism.
 - ▶ Any change in compensation methods should be done in an orderly transition that includes Universal Service considerations.

InterCarrier Compensation ex parte – VNXX Traffic

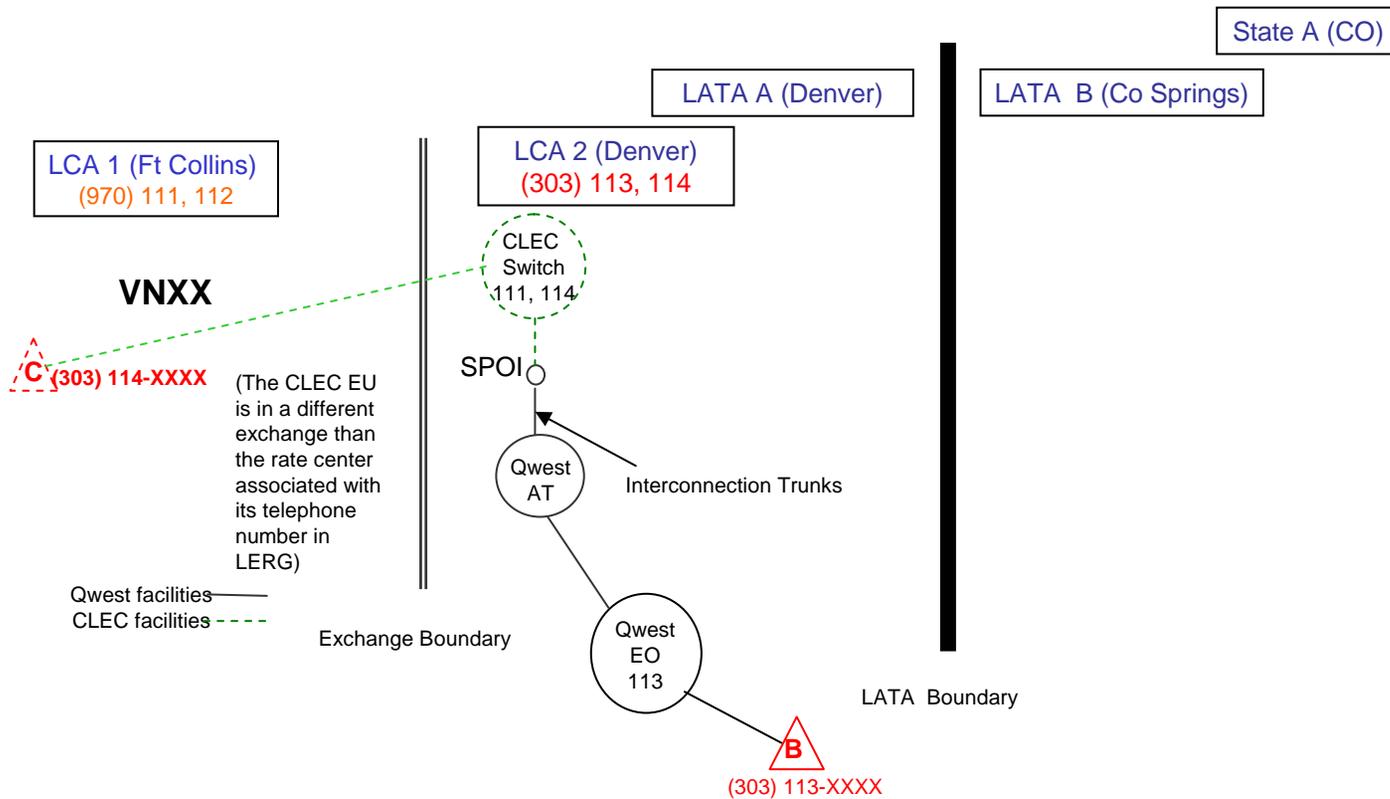
VNXX Example: IntraLATA



- ◆ What is VNXX? Calls that originate in one local calling area, using a local dialed number, and terminate to an end user physically located in another local calling area are Virtual NXX (VNXX).
 - ▶ **VNXX is not an Exchange service, but instead is an Interexchange service.**
 - ▶ Interconnection trunking is inappropriately used for the termination of this VNXX traffic.
 - ▶ Competitive Local Exchange Carriers (CLECs) obtain local NPA-NXXs, file them in the Local Exchange Routing Guide (LERG) associated with originating end user's rate center, and thus disguise these intraLATA or interLATA toll calls as local.
 - ▶ State commissions have historically determined ILEC local calling areas, and thus the definition of a local call, based on the physical originating and terminating points of the calls.

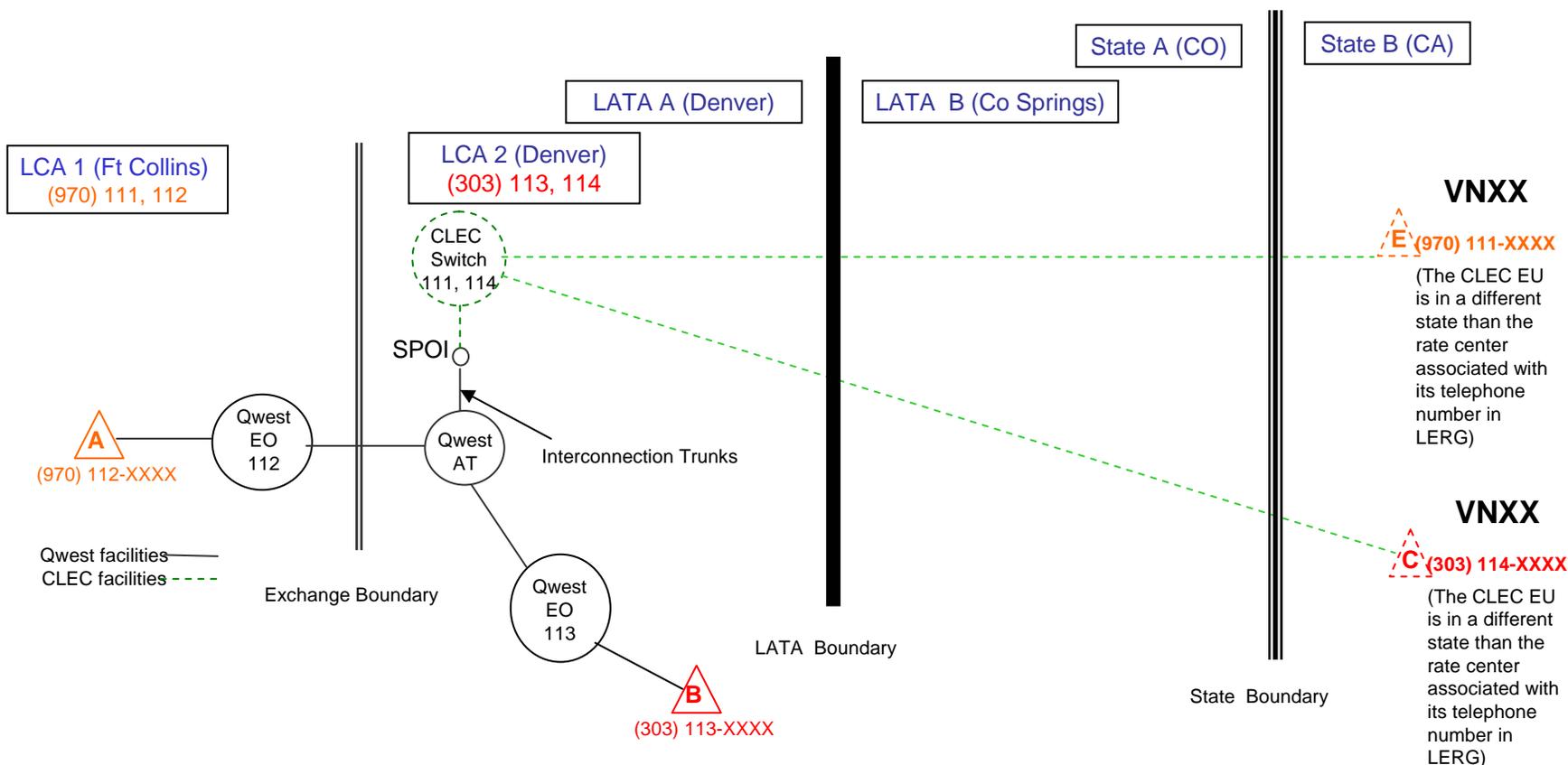
- ✓ Call A to D is permissible as a Local call
- ✓ Call A to E is impermissible, as it is a VNXX Interexchange call
 - ✓ CLEC switch and POI could also be in LCA 1, as VNXX is determined by physical location of A (LCA 1) and E (LCA 2) not CLEC switch or POI (see next slide)

VNXX: IntraLATA, Another Example



- ✓ Call from B to C is VNXX **interexchange** calls
- ✓ Under existing rules Interstate calls are not treated as local
 - ✓ ISP Bound calls qualify for the ESP Exemption only if the ISP has a local presence in the originating local calling area

VNXX: Interstate Examples

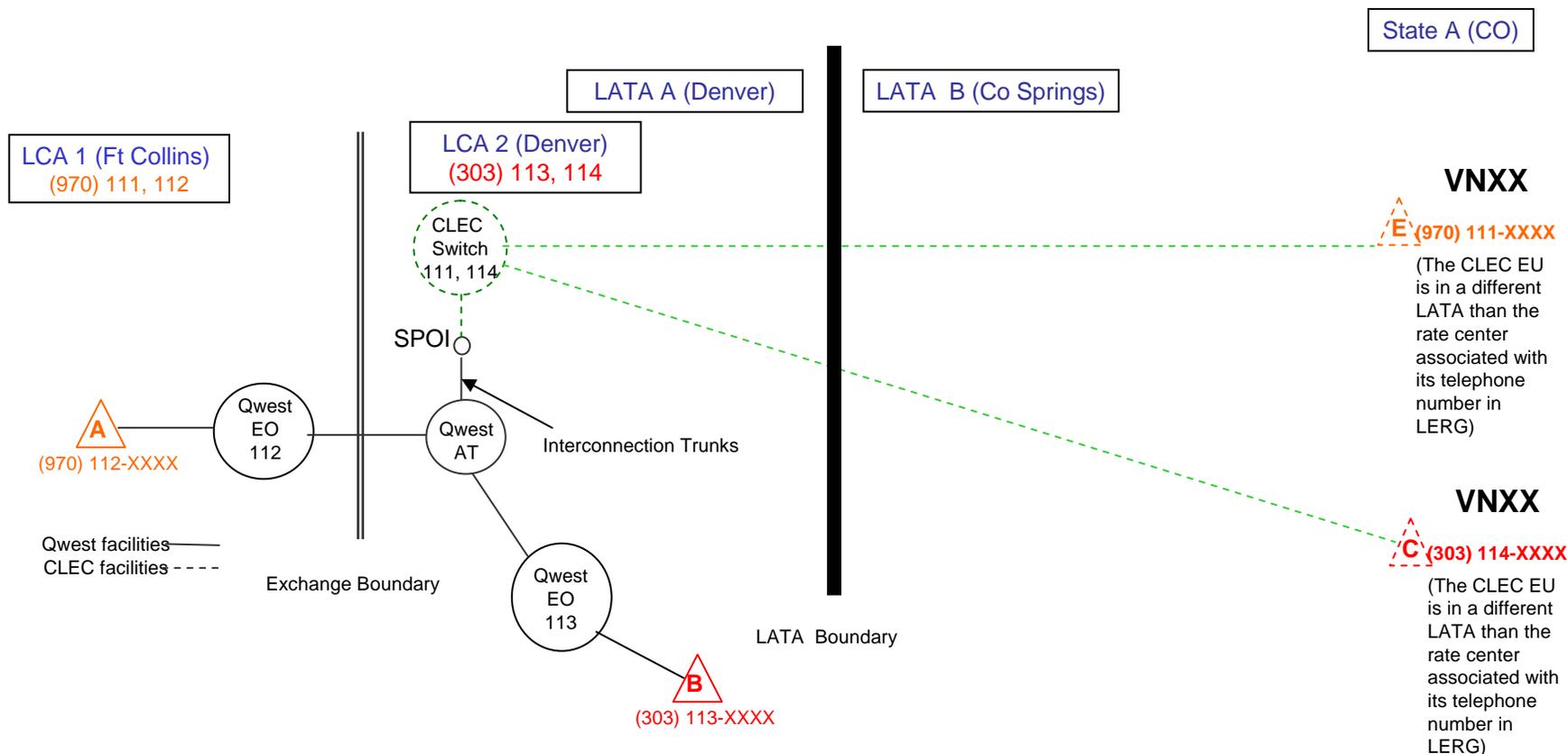


✓ Calls A to E and B to C are VNXX **Interstate, interexchange** calls

✓ Under existing rules Interstate calls are not treated as local

✓ ISP Bound calls qualify for the ESP Exemption only if the ISP has a local presence in the originating local calling area

VNXX: Intrastate/InterLATA Examples



- ✓ Calls A to E and B to C are VNXX **Intrastate/InterLATA, interexchange** calls
- ✓ Under existing rules Intrastate/InterLATA calls are not treated as local
 - ✓ ISP Bound calls qualify for the ESP Exemption only if the ISP has a local presence in the originating local calling area

InterCarrier Compensation ex parte – VNXX Traffic

◆ Who uses VNXX?

- ▶ CLECs use VNXX inappropriately to provide local telephone numbers to ISPs and other business customers (i.e. call centers) that do not have a physical presence in the local calling area.

◆ Why is VNXX inappropriate?

- ▶ ILECs, such as Qwest, bear the cost burden of the CLECs' VNXX arrangement.
 - Qwest subsidizes the costs of the transport used, as no access charges are paid
 - Qwest pays reciprocal compensation
- ▶ VNXX is a form of arbitrage, allowing CLECs to bypass the use of appropriate access services for long distance traffic by disguising the traffic as local.
- ▶ FCC's existing rules categorize traffic that originates and terminates in different local calling areas as interexchange, not local. **VNXX is thus interexchange**, and access charges apply. Neither reciprocal compensation nor ISP-bound intercarrier compensation rates apply to interexchange traffic (see *ISP Remand Order and Vonage Order*).

◆ Have the state commissions within Qwest's territory addressed VNXX?

- ▶ Within Qwest's territory, VNXX and the definition of Exchange Service has been addressed specifically in negotiation/arbitration of interconnection agreements with AT&T in all states. Commission decisions were required in 4 states (MN, OR, UT, WA) with rulings supporting Qwest's definition of local exchange traffic, which relies on the physical originating and terminating locations as opposed to dialing patterns. AT&T and Qwest negotiated interconnection agreements in the remaining states which contain Qwest's definition of local exchange traffic (vs. VNXX).
- ▶ Two states (IA, OR) have specifically addressed VNXX in other dockets, agreeing with Qwest that VNXX traffic is not local.

InterCarrier Compensation ex parte – VNXX Traffic

◆ What does Qwest seek?

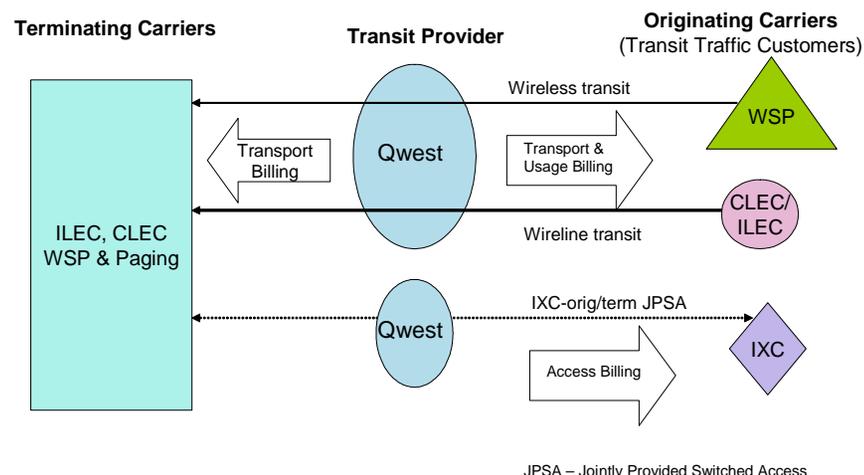
- ▶ The FCC, or state commissions, should reiterate that VNXX traffic is not local but interexchange
 - Special rules are not needed for interexchange Internet-bound traffic that is handed off at a non-local server
- ▶ Reciprocal compensation does not apply to VNXX traffic
- ▶ Compensation is due to the ILEC for transport of VNXX traffic

InterCarrier Compensation ex parte – Transit Traffic

- ◆ "Transit traffic" is telecommunications traffic that an Originating Carrier delivers to a Transit Provider for delivery to a Terminating Carrier.
- ◆ "Transit Provider" is a telecommunication carrier that transports transit traffic from an Originating Carrier to a Terminating Carrier and that does not originate or terminate telecommunications traffic.
- ◆ While Qwest provides the transiting function to hundreds of ILECs, CLECs and wireless service providers in our territory, neither Qwest nor any other carrier is required to provide transit under Section 251. However, the FCC has jurisdiction over transit traffic under Section 201(a) of the Act.
- ◆ The Originating Carrier always has the ability to directly connect to the Terminating Carrier instead of using a Transit Provider.
- ◆ The FCC should reiterate its Texcom Order¹ that either the Originating Carrier or the Terminating Carrier are responsible for payment of the transport and switching functions performed by the Transit Provider.

¹ Texcom, Inc. v Bell Atlantic Corp., 16 FCC Rcd 1493 (2001), reconsideration denied, 17 FCC Rcd 6275 (2002)

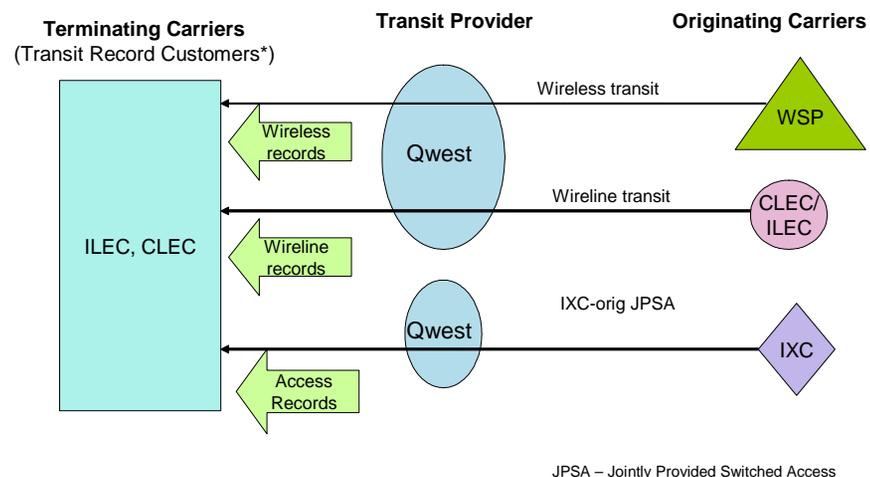
Transit Traffic Network Charges



InterCarrier Compensation ex parte – Transit Traffic

- ◆ In the event that Originating Carriers of transiting traffic can not successfully negotiate compensation arrangements with Terminating Carriers, the FCC should order the parties to follow the compensation rules discussed in this *ex parte*.
- ◆ The Transit Provider should not be held liable for the Terminating Carrier's billing disputes with the Originating Carrier.
- ◆ The Originating Carrier should be responsible for providing records to the Transit Provider and Terminating Carrier.
- ◆ Qwest offers transit records, when available, for a fee to the Terminating Carrier so they can bill the Originating Carrier for the call.

Qwest Transit Traffic Records



* Only specific transit record types are sold.