Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of Regulation of Prepaid Calling Card Services; Arizona Dialtone Inc. Petition for Reconsideration	WC Docket No. 05-68

VERIZON'S[1] COMMENTS IN PARTIAL SUPPORT OF ARIZONA DIALTONE'S <u>PETITION FOR RECONSIDERATION</u>

The Commission should clarify how its *Prepaid Calling Card Order*[2] applies when prepaid calling card providers set up their calling card platforms to be accessed by dialing a local telephone number. Specifically, the Commission should confirm that when a caller uses a prepaid calling card to place a call outside of the local calling area, the local exchange carriers ("LECs") on the originating end of the call are entitled to originating switched access from the calling card platform operator – *even if* the caller accesses the platform by dialing what appears to be a local telephone number. The Commission should also confirm that because these prepaid calling card calls are subject to originating access charges, industry standards regarding the ordering and billing of access services and the Commission's rules regarding the provision of Percentage of Interstate Usage ("PIU") factors apply. If local-dialed prepaid calling card

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1 The Verizon companies participating in this filing ("Verizon") are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

2 *Regulation of Prepaid Calling Card Services*, Declaratory Ruling and Report and Order, WC Docket No. 05-68 (rel. June 30, 2006) ("*Prepaid Calling Card Order*").

providers adhere to those industry standards and the Commission's rules, the LECs on the originating end of a prepaid calling card call will have all of the information necessary to identify the access traffic destined for these calling card platforms and bill the platform operator for originating access. A ruling by the Commission confirming the applicability of access rules and procedures is therefore necessary to shut down a growing access-avoidance scheme by which prepaid calling card providers disguise their long-distance traffic as local to avoid paying originating access.

I. The Commission Should Confirm That Local-Dialed Prepaid Calling Cards Are Subject To Access Charges As A Feature Group A Access Service

Arizona Dialtone's petition highlights an increasingly widespread practice among prepaid calling card providers. In this access-avoidance scheme, prepaid calling card providers set up their platforms such that the end user dials a local telephone number provided by a LEC, rather than a toll-free number routed to an interexchange carrier ("IXC"), in order to access the calling card platform. Arizona Dialtone focuses on one particular such arrangement involving direct inward dialing or "DID" services. In the calling card provisioning described by Arizona Dialtone, the originating LEC's end user dials a *local* telephone number provided by an intermediary LEC and the intermediary LEC routes the call to an IXC's calling card platform via a DID trunk. At the calling card platform, the caller obtains a second dial tone or is prompted to dial the number of the person he or she is calling, and the IXC routes the call accordingly, most often to a location outside of the calling party's local calling area. Because access charges are typically not assessed on local calls, prepaid calling card providers that set up their platforms in this way can often avoid paying originating access charges.

The DID prepaid calling card service highlighted in Arizona Dialtone's petition, however, is not the only type of service that can be, and is, used by service providers in this manner. For example, a prepaid calling card provider can achieve the same result by purchasing from a LEC an ISDN PRI, combination trunks, centrex lines, Digital Channel Service, Flexgrow, or any other telephone service that is capable of receiving incoming calls. Just as in the case of DID service, any of these services can be associated with a local telephone number, so that calling card customers dial a local number to reach the calling card platform. Moreover, service providers offering other types of platform-based services – such as conference calling or credit card-billed calling – can be structured in the same way, such that end users dial a local number to access a platform, from which their calls will be routed beyond the local calling area.

Regardless of whether the platform provider uses DID service, an ISDN PRI, or any other local-dialed telephone service to connect its platform to the intermediary LEC's switch, prepaid calling card calls and other similarly-routed calls are properly considered "access" calls. As the Commission has ruled on numerous occasions, the Commission "determine[s] the nature of communications by the end points of the communication, and consistently has rejected attempts to divide communications at any intermediate points of switching or exchanges between carriers."[3] Applying these principles, the Commission has made clear that a calling card call that is routed through a calling card platform is properly viewed as a single "end-to-end" call, from the end-user that places the call to the end user that receives the call.[4] That the call may be routed through an intermediate platform or switch does not affect the analysis. Prepaid calling

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3 *Provision of Improved Telecommunications Relay Services*, Declaratory Ruling and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 7779, ¶ 42 (2002).

4 *See, e.g.*, *AT&T Corp. Enhanced Prepaid Calling Card Services*, Order and Notice of Proposed Rulemaking, 20 FCC Rcd 4826, ¶¶ 5, 28 (2005); *The Time Machine, Inc., Preemption of State Regulation of Interstate 800-Access Debit Card Telecommunications Services*, Memorandum Opinion and Order, 11 FCC Rcd 1186, ¶ 30 (1995). *See also Teleconnect Co. v. Bell Telephone Co. of Pennsylvania et al.*, Memorandum Opinion and Order, 10 FCC Rcd 1626, ¶ 14 (1995) (applying same end-to-end analysis to toll-free calls routed through intermediate switch).

card providers are therefore "obligated to pay interstate or intrastate access charges based on the location of the called and calling parties"– regardless of whether the calling party first dials a local telephone number to access the calling card platform.[5] As a result, in the local-dialed prepaid calling card scenario described by Arizona Dialtone, both the originating LEC and the intermediary LEC are entitled to originating access charges from the platform provider. In fact, the call scenario described by Arizona Dialtone, as well as variations on that theme using other technologies, are virtually indistinguishable from the traditional jointly-provided "Feature Group A" access services that are offered by a number of LECs.

In a traditional jointly-provided Feature Group A access scenario, an IXC obtains a local telephone number from a LEC offering Feature Group A service and a line-side connection to that LEC's switch. The switch where the line side connection is provided is known as the "dial tone office," and the LEC providing this service is known as the "dial tone office LEC." The dial tone office LEC's end users – as well as any other LEC's end users – can then dial the local number, obtain a second dial tone, and then dial the number of the person they are calling. The dial tone office LEC receives all calls dialed to the local number assigned to the Feature Group A service and connects them to the IXC, which in turn transports each call to the called party's LEC. When the calling party is a customer of a LEC other than the dial tone office LEC, the calling party's LEC (or originating LEC) and the dial tone office LEC (or intermediary LEC) are jointly providing access service to the IXC, and both are entitled to share originating switched access charges.

The LECs' ability to receive originating access from the IXC turns on a number of industry ordering and billing guidelines governing Feature Group A access, as well as tariff

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5 *Prepaid Calling Card Order* at ¶ 27.

requirements imposed by those LECs that offer Feature Group A service. Pursuant to those guidelines and requirements, the access customer must order access service, including a local telephone number and a line-side connection, from a LEC that offers Feature Group A access service. The access customer must identify the IXC physically connected to the Feature Group A service, which is the IXC responsible for payment of originating access.[6] The dial tone office LEC will then configure its facilities to measure the volume of traffic transmitted to (or from) the access customer. And, in many cases, the dial tone office LEC's tariff will require the customer to provide information about the jurisdiction of the traffic, such as a PIU factor.[7] The dial tone office LEC then uses the volume information and any jurisdictional information collected to bill the IXC for originating access charges. In a jointly provided access situation, where the caller originating the call is not a customer of the dial tone office LEC, the dial tone office LEC is responsible for billing the IXC for switched access charges and then shares that access revenue with the originating LEC pursuant to provider-to-provider revenue-sharing arrangements.

By contrast, as Arizona Dialtone's petition points out, in many cases involving local-dialed prepaid calling card calls, conference calls, and other similar types of calls, the dial tone office LEC is unable to bill the IXC for originating access. Even though the functionality associated with local-dialed prepaid calling cards and similar services is indistinguishable from Feature Group A access, platform providers often do not follow industry guidelines and tariff requirements for ordering access services such as Feature Group A access. Instead, many platform providers order a direct connection to a LEC's switch from the LEC's retail general

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6 *See, e.g.*, Verizon Tariff F.C.C. No. 1 § 6.1.1(A) ("When ordering FGA service, the customer must specify the interexchange carrier to which the FGA service is physically connected.").

7 *See, e.g.*, Verizon Tariff F.C.C. No. 1 § 2.3.10(A)(1)(c).

exchange tariff, with no indication to that LEC that the connection will be used for access traffic. As a result, that LEC does not set up the service as Feature Group A access service – or any other kind of access service, for that matter.

Without its facilities configured to provide Feature Group A access, the LEC providing the direct connection to the platform provider cannot collect the billing information that it would collect in a Feature Group A arrangement. Indeed, the LEC may be unable to determine that local-dialed calls are prepaid calling card calls subject to access charges, because the calls appear to the LEC to be merely local calls to a local phone number. The LEC providing the direct connection therefore may have no way to measure or bill for originating access traffic to the platform.

The problem is exacerbated in cases involving more than one LEC on the originating side of the call. In such cases, the originating LEC is often doubly harmed. As discussed above, when two LECs jointly provided Feature Group A access, the originating LEC should receive a portion of the originating switched access that the dial tone office LEC receives from the IXC. Yet, when a prepaid calling card provider fails to follow industry guidelines and tariff requirements regarding access services, the intermediary LEC providing the connection to the platform may not know that calls to the direct connection number are anything other than local calls. The intermediary LEC may therefore bill calls to the platform as local calls: charging the originating LEC for reciprocal compensation. The originating LEC therefore suffers double injury, in that it must *pay* reciprocal compensation to the intermediary LEC, when instead it should *receive* a portion of originating switched access charges.

The Commission should address this increasingly widespread access-avoidance scheme by clarifying how its *Prepaid Calling Card Order* applies in the case of local-dialed prepaid calling cards and similar access services. Verizon agrees with Arizona Dialtone that the first step in addressing this issue is for the Commission to clarify that calls routed through local-dialed numbers to prepaid calling card platforms and similar services are access calls and that the LECs on the originating end of the call are entitled to receive originating switched access from the platform provider. Specifically, the Commission should make clear that the functionalities used for local-dialed platform services constitute Feature Group A access. The platform provider must therefore obtain its direct connection according to the industry guidelines and tariff requirements surrounding that service. Under those guidelines, the platform provider must order its direct LEC connection from a LEC that offers Feature Group A service and must identify itself as an access customer so that the dial tone office LEC can configure its facilities to measure traffic. The platform provider also must identify the IXC responsible for the Feature Group A access charges. Finally, the platform provider must comply with the dial tone office LEC's tariff requirements and the Commission's *Prepaid Calling Card Order* regarding the calculation of PIU factors to jurisdictionalize the traffic routed through the platform and the provision of those factors to the dial tone office LEC. Clarifying that local-dialed prepaid calling card providers must pay originating access and must adhere to the industry procedures and requirements regarding Feature Group A access will assist both intermediary, dial tone office LECs and originating LECs in obtaining the necessary information to recover the access charges to which they are lawfully entitled.

II. The Solutions Proposed By Arizona Dialtone Will Not Provide Meaningful Relief In Most Cases

The alternative proposed remedies put forth by Arizona Dialtone are not, by themselves, sufficient to ensure appropriate billing of access charges on prepaid calling card traffic. Arizona Dialtone would require (1) prepaid calling card providers to identify all of the local numbers associated with their calling card platforms and (2) intermediary LECs, on request, to identify the customer associated with any given local DID number. But such a proposal presumes that an originating LEC has the ability to segregate and measure its outgoing local traffic by called party number. *See Arizona Dialtone Petition* at 12. In fact, many – if not most – LECs do *not* create detailed call records for local traffic, and therefore cannot determine how many minutes were directed to any particular local telephone number. As a result, even if the LEC knew the local numbers being used to access a prepaid calling card platform, the LEC would not be able to determine how many (if any) minutes of traffic the LEC had sent to the platform. As such, Arizona Dialtone's proposals would provide no meaningful relief to the many LECs who do not create detailed call records for local traffic.

CONCLUSION

For the foregoing reasons, the Commission should grant Arizona Dialtone's petition in part as discussed above.

Respectfully submitted,

Michael E. Glover
Of Counsel

Karen Zacharia
Amy P. Rosenthal
VERIZON
1515 North Court House Road
Suite 500
Arlington, VA 22201-2909
(703) 351-3175

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Attorneys for Verizon