

**THE STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION**

DT 11-052

**Level 3 Communications, LLC
Revisions to NHPUC Tariff No. 1**

**RESPONSE OF LEVEL 3 COMMUNICATIONS, LLC TO AT&T'S PETITION FOR
INTERVENTION AND FOR AN ORDER TO INVESTIGATE TARIFF**

Level 3 Communications, LLC (“Level 3”) hereby responds to AT&T’s Petition for intervention and for an order to investigate tariff, and to the Memorandum dated April 12, 2011 from Michael Ladam, Assistant Director of Telecommunications in the above-captioned docket. For the reasons described below, Level 3 hereby withdraws the proposed change in tariff language to which AT&T objects – modifications to the definition of the term “end office” – which renders AT&T’s petition moot. Given this modification Level 3 recommends that the proposed tariff revisions be allowed to take effect on April 16, 2011 as originally proposed.

The key purpose of Level 3’s tariff revisions is to establish rates and terms for Level 3’s offering of its own tandem switching functionality in connection with the provision, by Level 3, of originating and terminating access services for interexchange carriers (“IXCs”) such as AT&T. Prior to the introduction of this arrangement, Level 3, like most competitive local exchange carriers (“CLECs”), has chosen to “home” its end office switches on the applicable incumbent local exchange carrier (“ILEC”) tandem switch. In New Hampshire, this means that Level 3’s end offices have, historically, homed on FairPoint’s (formerly Verizon’s) tandems.

In terms of access charges to IXCs, when an IXC routes a call to Level 3 by means of FairPoint’s tandem (that is, the historical situation), FairPoint charges the IXC for tandem functionalities (such as entrance facilities, transport, and tandem switching), and Level 3 charges

the IXC for end office functionalities. Once Level 3 has rehomed its end office switches onto its own tandems, the IXCs will purchase both tandem and end office functionality (and associated transport and related functions) directly from Level 3.

While AT&T notes these aspects of our tariff filing, it does not raise any substantive objections to them. Instead, it takes issue with what for Level 3 was a relatively minor update of the tariff language used to define the term “end office.” That language has been basically unchanged (with minor variations) for many years. However, while the “standard” tariff language has remained the same, switching technology has not. Specifically, over the last decade or so, rural ILECs and CLECs have been moving away from expensive and increasingly outmoded switches of the type commonly used by ILECs, and instead deploying what are known in the industry as “soft switches.” These switches are perfectly capable of performing traditional “circuit” switching, but are both less expensive, and technically more versatile, than old-style switches. The FCC has described this development as follows:¹

In recent years ... telecommunications technology has been evolving from circuit-switched to an IP-based environment and many smaller rate-of-return carriers are purchasing soft switches. Soft switches and routers tend to be cheaper and more efficiently scaled to smaller operating sizes than the specialized hardware-based switches that predominated [in prior years].

The FCC goes on to explain:²

A soft switch connects calls by means of software running on a computer system. In such configurations the “switching” is virtual because the actual path through the electronics is based on signaling and database information rather than a physical pair of wires. Soft switches are economically desirable because they offer significant savings in procurement, development, and maintenance. Such devices feature vastly improved economies of scale compared to switches based on specialized hardware.

¹ *Connect America Fund, etc.*, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, WC Docket No. 10-90 *et al.*, (released February 9, 2011) (“*Universal Service/Intercarrier Compensation NPRM*”) at ¶ 187 (footnotes omitted).

² *See Id.*, ¶ 187 & n.298.

Without getting into the technical details, while soft switches perform all the functions that “traditional” switches perform, the specific manner in which they do so is not identical.

In light of these technical developments, Level 3, in the course of reviewing its access tariff, believed that it would be prudent to update the definition of “end office” in the definitions section. With those technical developments in mind, we proposed the following changes to our previous tariff:

End Office: The term “end office” denotes the switching system office or serving wire center (or functionally equivalent or analogous facilities) where Customer station loops (or functionally equivalent or analogous facilities) are terminated or otherwise connected to the Company’s facilities or services for purposes of interconnection to each other and/or to trunks.

The purpose and intended effect of the proposed changes was to take account of the changes in switching technology described above. That said, the FCC’s recognition of soft switches as being widely used for the provision of access services, as well as evolving industry usage, indicates that the proposed changes are not strictly necessary at this time, since the term “switching system office or serving wire center” are clearly broad enough on their own to cover the technical evolution from circuit switches to soft switches. Consequently, with this Response, Level 3 hereby withdraws the proposed tariff changes to the definition of “end office” noted above.

In a Memorandum in this docket dated April 12, 2011 Assistant Telecommunications Director Michael Ladam had recommended that the effective date of the tariff be extended until May 17, 2011 based on AT&T’s petition and its “concern with perceived ambiguity in the revision’s definition of the term ‘end office’” to allow further investigation. In light of Level 3’s withdrawal of the proposed change to the definition of “end office”, which eliminates the only concern that has been expressed about the proposed revisions other than what Level 3 understands to be some minor, non-substantive clarifications and corrections which have been

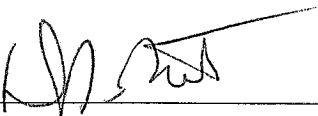
addressed with Staff, Level 3 recommends that the tariff revisions be allowed to take effect on April 16, 2011 as originally proposed.

For these reasons, AT&T's Petition should be dismissed as moot and Level 3's tariff revisions, with the exception of the language noted above, should be allowed to take effect on April 16, 2011.

Respectfully submitted,

Level 3 Communications, LLC

By Its Attorneys



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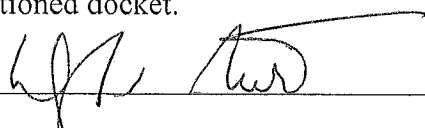
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Dated: April 13, 2011

Certificate of Service

I hereby certify that a copy of the foregoing Motion has on this 13th day of April, 2011 been sent by email to the service list in the above-captioned docket.

By: _____



Douglas L. Patch