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VIA ECFS

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Re: *CenturyLink, Inc. and Level 3 Communications, Inc. Consolidated Applications for Consent to Transfer Control of Domestic and International Authorizations Pursuant to Section 214 of the Communications Act of 1934, As Amended, WC Docket No. 16-403***

Dear Ms. Dortch:

Level 3 Communications, Inc. (“Level 3”) hereby responds to the recent *ex parte* letter submitted by Telnyx LLC (“Telnyx”) in the above-referenced docket.<sup>1</sup> As explained herein, Telnyx’s assertions regarding conversations with Level 3 about a wholesale access tandem product and other products appear to reflect a misunderstanding of information that was communicated by Level 3’s sales team to Telnyx. Contrary to Telnyx’s assertions in its *ex parte*, the transaction through which CenturyLink, Inc. (“CenturyLink”) proposes to acquire Level 3 (the “Transaction”) has had no bearing on Level 3’s ability or willingness to offer the products in question to Telnyx.

By way of background, Telnyx expressed interest in a number of Level 3 products over the course of several months in late 2016 and early 2017. The Telnyx *ex parte* appears to reference two of these products and the discussions between the parties surrounding them.<sup>2</sup>

As relevant here, Telnyx and Level 3 engaged in a series of brief discussions regarding Level 3’s access tandem services in late 2016. Telnyx never expressed a desire to purchase those services. Level 3 did not decline to sell access tandem services to Telnyx.

Following those discussions, in the first quarter of 2017, Telnyx and Level 3 engaged in a series of discussions regarding Level 3’s customer owned telephone number (“COTN”) product. Level 3’s COTN product is a new, non-standard product that allows interconnected VoIP providers and other providers that have obtained their own telephone numbers to route traffic through Level 3’s network. Level 3 has entered into contracts to provide COTN to a very small number of customers. Level 3 did so only after individualized negotiations and as part of larger, strategic, multi-product relationships. Level 3 has not made COTN widely available because, among other reasons, meaningful systems development work would be required before the COTN product could be effectively scaled and offered to a broader range of customers.

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<sup>1</sup> Letter from Mark C. Del Bianco, Counsel to Telnyx LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 16-403 at 2-3 (filed Apr. 17, 2017) (“Telnyx Letter”).

<sup>2</sup> The parties discussed more than these two products over this several-month period, although Telnyx declined to purchase any of the products offered.

After discussions with Telnyx in February and March 2017, Level 3's product team paused COTN development when it determined that the necessary development resources were not available. Level 3 therefore decided not to offer COTN to Telnyx, or to any other new customer, until additional resources become available.<sup>3</sup>

On March 31, 2017, a Level 3 sales representative contacted David Casem, Telnyx's CEO, to communicate Level 3's decision. Specifically, Level 3 explained that

- COTN is not a standard product and requires significant resources to support;
- those resources currently are not available, and Level 3 therefore will not be making COTN more widely available at this time; and
- to the extent additional resources become available in future, Level 3 is interested in moving forward with the COTN product, but there is no established timeline for doing so.

Level 3 is unaware of any basis for Telnyx's assertion that "after the merger the combined CenturyLink will likely not offer the product to competing service providers."<sup>4</sup> As mentioned above, CenturyLink's proposed acquisition of Level 3 did not influence Level 3's decision not to make COTN more widely available at this time. Further, to Level 3's knowledge, no decision has been made regarding whether the combined company will offer COTN, either as a specialized, custom-built product or a more widely available product, following the consummation of the Transaction. In this regard, however, Level 3 notes that the increased scale and resources available to the combined company may make it possible to pursue more product offerings like COTN in the future.

Level 3 regrets that Mr. Casem appears to have misunderstood the message that was delivered to him by Level 3, and that Telnyx has been unable to find commercially available products – from Level 3 or other providers – on terms that it finds satisfactory. However, the claim that Level 3 declined to sell Telnyx service because of the Transaction is unfounded, and Telnyx's request that Level 3 be required to sell a non-standard, not generally available product as a condition of the Commission's approval of the Transaction should be denied.

Please contact the undersigned with any questions regarding the foregoing.

Respectfully submitted,

/s/ Nicholas G. Alexander  
Nicholas G. Alexander

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<sup>3</sup> It is worth noting that such resources have not yet become available, and Level 3 therefore continues to withhold COTN from its service offerings.

<sup>4</sup> Telnyx Letter at 2.