

July 5, 2017

VIA COURIER

EX PARTE

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

Re: *July 1, 2017 Annual Access Charge Tariff Filings, WC Docket No. 17-65*

Dear Ms. Dortch:

On June 29, 2017, Joe Cavender of Level 3 Communications, LLC (“Level 3”) and the undersigned discussed the above-referenced tariff filings with Kristine Fargotstein, acting wireline advisor to Chairman Ajit Pai. Later on June 29th, Mr. Cavender again discussed the above-referenced tariff filings with Ms. Fargotstein alone and then subsequently with Ms. Fargotstein and Nick Degani, Senior Counsel to Chairman Pai. During the discussions, we reiterated the arguments set forth in Level 3’s Petition to Reject or Suspend and Investigate as to why the Commission should reject the AT&T transmittals as unlawful or at the very least suspend and investigate the transmittals.¹ In addition, we explained that the phrase “terminating carrier” in section 51.907(g)(2) encompasses ILEC affiliates that provide wireless, VoIP, and CLEC services. We also explained that AT&T is not permitted to disregard the plain terms of Section 51.907(g)(2) based on an (incorrect) assertion that voice traffic encompassed by the definition of Tandem-Switched Transport Access Service and that is delivered to an ILEC affiliate that provides wireless, VoIP, or CLEC services (“Non-ILEC Affiliated”) is “transit” traffic.² As we explained, that traffic is governed by Section 51.907(g)(2), and AT&T is

¹ See Petition of Level 3 to Reject or Suspend and Investigate, WC Docket No. 17-65; Ameritech Operating Companies Tariff F.C.C. No. 2, Transmittal No. 1860; BellSouth Telephone Company Tariff F.C.C. No. 1, Transmittal No. 130; Nevada Bell Telephone Company Tariff F.C.C. No. 1, Transmittal No. 301; Pacific Bell Telephone Company Tariff F.C.C. No. 1, Transmittal No. 553; Southwestern Bell Telephone Company Tariff F.C.C. No. 73, Transmittal No. 3444 (filed June 23, 2017).

² Section 51.907(g)(2) applies to “Tandem-Switched Transport Access Service” rates for “interstate and intrastate terminating traffic traversing a tandem switch that the terminating carrier or its affiliate owns.” 47 C.F.R. § 51.907(g)(2). Tandem-Switched Transport Access Service is defined in Section 51.903(i), in relevant part, as “(1) Tandem switching and common transport between the tandem

obligated to file tariffs that conform to the requirements of that provision. Nor may AT&T rely on the assertion that traffic not encompassed by Section 51.907(g)(2) traverses its tandems and is delivered to its Non-ILEC Affiliates for termination as the basis for evading its obligations under Section 51.907(g)(2) with regard to traffic that is encompassed by that provision.

Please do not hesitate to contact me at (202) 303-1111 if you have any questions regarding this submission.

Respectfully submitted,

/s/ Thomas Jones
Thomas Jones
Counsel for Level 3 Communications, LLC

cc (via email): Kristine Fargotstein
Nick Degani

switch and end office; or (2) Any functional equivalent of the incumbent local exchange carrier access services provided by a non-incumbent local exchange carrier via other facilities.” *See id.* at § 51.907(g)(2)