

September 7, 2017

**VIA ECFS**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

**Re:    *Level 3 Communications, LLC v. AT&T Inc. et al.*, EB Docket No. 17-227,  
      File No. EB-17-MD-003**

Dear Ms. Dortch:

Level 3 Communications, LLC (“Level 3”) and AT&T Inc. (“AT&T,” and, together with Level 3, the “Parties”) have further discussed certain rules and procedures governing the Section 208 complaint that Level 3 anticipates filing against AT&T and certain of its affiliates this week, as well as the Parties’ related submissions. Subject to the approval of Enforcement Bureau staff, the Parties agree that waiver of the following Commission rules will result in a more efficient complaint process without compromising fairness to either of the Parties.

*First*, the Parties request a limited waiver of Section 1.720(f),<sup>1</sup> which requires submission of all “non-Commission authorities relied upon which are not routinely available in national reporting systems,”<sup>2</sup> in order that they may submit relevant excerpts of supporting documents as part of briefing. For its part, Level 3 proposes to file only an excerpt from an otherwise voluminous Level 3-commissioned analyst report. Level 3 has only relied on one page of this report to support its complaint. The remainder of the report is both extraneous and competitively sensitive, addressing a number of competitive business forecasting issues not relevant to the instant dispute. AT&T would retain (and not waive) the right to seek the entire document at a later time. AT&T would also be able to take advantage of this approach to the extent that it seeks to rely on portions of larger documents in its answer or surreply, and Level 3 would retain (and not waive) the right to seek the entire versions of such documents at a later time. This limited waiver would align with the logic of Section 1.720(h), which allows filers to submit excerpts of the relevant portions of tariffs relied up on in a complaint, rather than requiring submission of entire tariffs.<sup>3</sup>

*Second*, the Parties seek a waiver of the Section 1.735(c) provision requiring service of a complaint by “hand delivery”<sup>4</sup> to instead permit email service of Level 3’s complaint.

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<sup>1</sup> 47 C.F.R. § 1.720(f).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* § 1.720(h).

<sup>4</sup> *Id.* § 1.735(c).

Permitting email service of the complaint aligns with Section 1.735(f) because email is already an approved method of service for subsequent filings.<sup>5</sup>

For the reasons set forth above, and in light of the Parties' agreement and the limited nature of the dispute, there is good cause for the Bureau to waive application of these rules.<sup>6</sup>

Please contact the undersigned with any questions regarding this submission. We look forward to the staff's response at its earliest convenience.

Sincerely,

/s/ Thomas Jones

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<sup>5</sup> See *id.* § 1.735(f).

<sup>6</sup> See *id.* § 1.3.