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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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JUN 25 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Petition of the Association for Local Telecommunications Services (ALTS) for a Declaratory Ruling Establishing Conditions Necessary to Promote Deployment of Advanced Telecommunications Capability Under Section 706 of the Telecommunications Act of 1996	)	CC Docket No. 98-78

REPLY COMMENTS OF LEVEL 3 COMMUNICATIONS, INC.

Level 3 Communications, Inc. ("Level 3"), respectfully submits these reply comments to renew its support for ALTS's request in the above-referenced Petition for a Declaratory Ruling. The BOCs have spent considerable time and energy coordinating their efforts to shore up control over the public switched network. In so doing, they have argued incessantly about the supposed ease of competitive entry, denied their control of network facilities, and even rehashed arguments about reciprocal compensation for terminating calls to ISP providers, which is separately being considered by the Commission and has already been ruled upon by twenty states. Throughout their repeated posturing, however, the BOCs have still failed to provide details of their plans to deploy advanced telecommunications services. With total control over the local facilities that are vital for widespread deployment of high-speed Internet access, it is clear that with

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the relief that they seek,[1] BOCs *would* be in a unique position to provision data services to local users.[2] But even if they do nothing, by denying competitors access to unbundled network elements, collocation space, and the ability to enter a market via resale, they would be ideally situated to stifle the ability of CLECs to offer advanced services.

As has become a custom, BOCs are continuing to argue shamelessly that competition for local services over local networks is robust.[3] In many cases, BOCs have taken to finger pointing about the lack of CLEC efforts to offer competitive services and CLEC refusal to invoke their rights under the Act.[4] Without addressing each of their self-serving characterizations, the fact remains that markets are not open. That so many market-opening issues remain about which to argue itself demonstrates that BOCs have a long way to go. This is certainly so measuring from BOC compliance with the Section 271 Checklist, despite their claims that they have "exceeded" the requirements of the Act.[5] (As Level 3 has argued in the LCI "Fast Track" Proceeding, CC Docket No. 98-5, even Section 271 compliance would not adequately address a BOC's incentive to use the bottleneck facilities it controls to discriminate against competitors who must rely on such facilities.) In any case, a straw poll of customers across the country, eager to get a choice

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1 See Petitions in CC Dockets 98-11, 98-26, and 98-32.

2 GTE's attempt to belittle ILEC control of network elements by suggesting that there are viable alternatives such as cable modems to which customers could readily switch simply does not comport with reality. See Opposition of GTE, at 13-14.

3 See GTE Opposition at 3-4;

4 *See, e.g.* Comments of BellSouth, at 4.

5 Bell Atlantic Comments, at 9.

in local telephone service including high-speed access to the Internet, could verify the limited amount of competition rather quickly.

Now the ILECs have decided that "data facilities" are not the same as the networks over which the ILECs exercise control.[6] This, of course, takes no account of the fact that xDSL service, by definition, depends on the copper loop, and that access to such loops requires collocation. The BOCs have scarcely proved that loops can be unbundled seamlessly and have certainly made no commitment to ensure that competitors will have adequate, timely, and economically reasonable collocation space to service such loops.

In a more interesting twist, GTE and Bell Atlantic have apparently decided that bringing the issue of reciprocal compensation for local calls terminated to ISPs into the fray will couch data services as "long distance" and therefore outside of a BOC's ability to exercise market power.[7] This is misplaced, and in any case should be reserved for the appropriate proceeding.

Level 3 and others will have no hope of offering consumers ready high-speed access to the Internet if BOCs do not accept their responsibilities under the act to unbundle loops and provide collocation on just, reasonable, and nondiscriminatory terms. As ALTS has stated, BOCs must comply with the current obligations in order to foster competition in the markets for advanced telecommunications services. Level 3 continues to support the ALTS petition and encourages the Commission to take the steps

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6 See, e.g., Comments of U S WEST, Inc., at 16.

7 See Bell Atlantic Comments, at 2-6; Opposition of GTE, at 17-20.

proposed by ALTS to make clear to all telecommunications providers that advanced telecommunications services, just as any other telecommunications services, are subject to the pro-competitive provisions of the 1996 Act.

Respectfully submitted,

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June 25, 1998

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of June, 1998, a copy of Level 3 Communications, Inc.'s Reply Comments in Docket No. 98-78, was sent by first class mail, or by hand delivery, where indicated with an asterisk, to the parties identified on the attached list:

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