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July 31, 2015

Ex Parte

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

Re: Technology Transitions, GN 13-5; AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition, GN Docket No. 12-353; Special Access for Price Cap Local Exchange Carriers, WC Docket No. 05-25; Policies and Rules Governing the Retirement of Copper Loops by Incumbent Local Exchange Carriers, RM-11358.

Dear Ms. Dortch:

On July 29, 2015, Jack Waters, Chief Technology Officer; Michael Mooney, General Counsel, Regulatory Policy; and I, on behalf of Level 3 Communications, LLC ("Level 3"), met separately with (1) Commissioner Michael O'Rielly and his legal advisor, Amy Bender; (2) Commissioner Ajit Pai and his legal advisor, Nicholas Degani; (3) Daniel Alvarez, legal advisor to Chairman Wheeler; Carol Matthey, Deputy Bureau Chief of the Wireline Competition Bureau; and Daniel Kahn, Deputy Division Chief of the Wireline Competition Bureau's Competition Policy Division; (4) Rebekah Goodheart, legal advisor to Commissioner Clyburn; and (5) Travis Litman, legal advisor to Commissioner Rosenworcel, regarding the above-captioned proceedings. We made the following points.

Level 3 has an extensive global network, with approximately 30,000 buildings on-net in the United States. Moreover, Level 3 will invest in excess of \$1 billion in capex this year, and aims to put thousands of new buildings on-net every year. Notwithstanding this strong focus on expanding its network, Level 3 relies heavily on special access services purchased from other providers to provide service to the majority of its customers. As an example, a customer of Level 3 might have several locations, some of which are on-net, but some of which Level 3's fiber network does not reach. Yet that customer will want Level 3 to provide service to *all* of its locations. Level 3 can do so only by relying on special access services. And for the

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overwhelming majority of those special access services, Level 3 has no choice but to purchase service from the incumbent local exchange carrier.

The incumbents' transition from TDM to IP services must not be used as cover to deprive end users of their choice of service provider. Accordingly, Level 3 supports the adoption of a requirement that incumbent LECs offer a replacement product that is reasonably comparable to an existing TDM product in order to be permitted to discontinue offering that TDM product. The Commission must not, however, permit a "reasonably comparable" standard to become no standard at all, or to be viewed as an invitation for incumbents to raise prices—especially in light of the fact that the costs associated with offering modern IP services are *lower* than the costs of traditional TDM services. Level 3 also supports the adoption of rules that would provide additional notice relating to the planned retirement of copper facilities.

Adopting these proposals will not just safeguard end users' choices and competition today, it will also provide needed regulatory certainty. For its part, Level 3 must consider what kinds of products and services to develop, what kinds of facilities to deploy, and where to deploy them. And as a global provider, Level 3 must consider whether to focus investment in—and create jobs and economic activity in—the United States or abroad. The regulatory environment, including whether there is any predictability regarding what the regulatory environment will be as the incumbents transition away from TDM facilities, necessarily informs those decisions.

Finally, we emphasized that any interim rules adopted in this proceeding must not sunset of their own accord without further Commission action. Interim rules regarding replacement services for TDM services will presumably no longer be necessary once the Commission has taken action to comprehensively review and reform the market for incumbent LECs' special access services, including Ethernet services, addressing pricing, terms, and the anticompetitive provisions incumbents use to lock up the market and limit competition. The purpose of the interim rules is to fill the gap between now and the conclusion of those proceedings. Accordingly, the interim rules adopted in this proceeding should apply until the Commission has concluded its holistic review of the special access marketplace, or until the Commission affirmatively concludes that the interim rules are no longer necessary given then-current market dynamics.

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Please contact me if you have any questions regarding this matter.

Sincerely,

/s/ Joseph C. Cavender

Joseph C. Cavender

cc: Daniel Alvarez
Amy Bender
Nicholas Degani
Rebekah Goodheart
Daniel Kahn
Travis Litman
Carol Matthey
Commissioner Michael O'Rielly
Commissioner Ajit Pai