

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
Numbering Policies for Modern Communications)	WC Docket No. 13-97
IP-Enabled Services)	WC Docket No. 04-36
Telephone Number Requirements for IP-Enabled Services Providers)	WC Docket No. 07-243
Telephone Number Portability)	CC Docket No. 95-116
Developing a Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
Connect America Fund)	WC Docket No. 10-90
Numbering Resource Optimization)	CC Docket No. 99-200

PETITION FOR LIMITED WAIVER OF 47 C.F.R. § 52.15

Pursuant to Section 1.3 of the Commission’s rules,¹ Level 3 Communications, LLC (“Level 3”) respectfully requests a temporary waiver of the requirement to classify North American Numbering Plan (NANP) telephone numbers (TNs) that Level 3 has provided to interconnected VoIP providers or other non-carrier entities, but that have not necessarily been assigned to an end-user or customer by the receiving non-carrier entity, as “intermediate” instead of “assigned.”² As described in greater detail below, a limited waiver of the rules is necessary because it is technically infeasible for Level 3 to upgrade the information technology for its Local Inbound product, inventory the TNs held by Level 3’s non-carrier LI customers, and modify its contractual relationships with its non-carrier LI customers in time for the utilization report due on February 1, 2016.³ Level 3 seeks this waiver for the utilization report due on February 1, 2016,⁴ and applications for growth numbering resources Level 3 may submit through July 31, 2016.⁵

I. Background

Level 3, through itself and its affiliates, sells two products that allow wholesale, non-carrier customers to use TNs provided by Level 3. Level 3’s Local Inbound product (LI) allows for

¹ 47 C.F.R. § 1.3.

² 47 C.F.R. § 52.15(f)(v) (definition of “intermediate numbers”); 47 C.F.R. § 52.15(f)(iii) (definition of “assigned numbers”); *Numbering Policies for Modern Communications et al.*, WC Docket No. 13-97 *et al.*, Report and Order, 30 FCC Rcd 6839, 6853-55, paras. 30-32 (2015) (*Direct Access Order*).

³ That report covers data for the period ending on December 31, 2015. *See* 47 C.F.R. § 52.15(f)(5), (6).

⁴ 47 C.F.R. § 52.15(f)(5), (6).

⁵ 47 C.F.R. § 52.15(g)(4), (h).

Level 3's customers to receive calls at Level 3-provided TNs, aggregate the traffic, and hand that traffic off to single or multiple IP endpoints. Level 3's VoIP Enhanced Local Service (ELS) provides inbound and outbound local and long-distance voice services to Level 3-provided TNs utilizing an IP to IP or PSTN to IP hand-off. Level 3's LI and ELS customers may utilize the TNs they are assigned when they purchase the LI or ELS products in conjunction with other Level 3 services, or they may use them as an input into other services they provide to their end users.

Level 3 shares and fully supports the Commission's goals of ensuring consistency and accuracy in number reporting and limiting telephone number exhaust.⁶ The Commission recognized, however, "that carriers have not been reporting the use of numbers under the intermediate category consistently, and that there are widely differing interpretations of the definition of intermediate numbers and the requirement to report numbers in the intermediate category."⁷ Level 3 had, until the Commission issued its clarification in the *Direct Access Order*, taken the position that TNs transferred to a voice service partner which were live and in-service on Level 3's network were appropriately reported as assigned on its semi-annual numbering utilization reports.

Through the expenditure of significant time and resources, Level 3 was able to upgrade its ELS product platform to support TN reporting and ordering consistent with the Commission's clarification prior to December 31, 2016 – in time for the February 1, 2016 numbering utilization report. As described in greater detail below, Level 3 is still in the process of bringing its LI platform into full compliance.

II. It is Not Technically Feasible to Bring the Local Inbound Product Into Compliance for the February 1, 2016 Report

Level 3 must complete three processes before it can report its numbering utilization and submit applications for growth numbering resources consistent with the Commission's clarification. Specifically, Level 3 must (1) complete the process of upgrading its LI platform;; (2) obtain numbering utilization information from LI customers that have not previously provided such information to Level 3; and (3) complete the process of rolling Level 3's LI customers onto updated contracts so that Level 3 is able to obtain the necessary numbering utilization information from those customers. As described below, Level 3 has diligently pursued the completion of these tasks, but it is not technically feasible for Level 3 to complete them prior to the reporting deadline of February 1, 2016.⁸

A. IT Upgrades to Level 3's LI products

Level 3's older LI product was not designed to allow LI customers to identify TNs they have been issued as "intermediate" or "assigned." Upon issuance of the *Direct Access Order*, Level 3 initiated the following upgrades to the LI platform:

⁶ *Direct Access Order*, 30 FCC Rcd at 6853-54, para. 30.

⁷ *Direct Access Order*, 30 FCC Rcd at 6854, para. 32.

⁸ Level 3 previously estimated that "it would take approximately 12 months to design, develop, test, and deploy" systems to provide such a capability. See Comments of Level 3 Communications, LLC, WC Docket No. 13-97 et al., at 5 (filed July 19, 2013).

- Modifying the LI platform to classify TNs issued to LI customers as “intermediate” upon transfer;
- Enabling the transfer of “intermediate” and “assigned” status data from the LI platform to Level 3’s TN management and reporting system;⁹ and
- Modifying the Level 3 customer portal to allow LI customers to identify TNs they have assigned to an end-user as “assigned.”

Level 3 has completed the development necessary to implement the first two upgrades to the LI platform. Level 3 has not yet completed the development necessary to allow LI customers to utilize the Level 3 portal to identify TNs they have assigned to an end-user as “assigned.” Level 3 expects that the development required for this third upgrade will be completed, and all upgrades implemented, early in the second quarter of 2016.

B. Inventory of existing customer TNs

Level 3 has hundreds of LI customers that have not previously been required to update the status of their TNs from “intermediate” to “assigned” when they assign those numbers to an end user. Level 3 is in the process of educating its customers with respect to the new requirements and how they are to provide updates on TN status through the Level 3 portal. Even after the IT upgrades discussed above are completed in the second quarter of 2016, however, Level 3 anticipates that it will take at least sixty additional days to obtain accurate information from all LI customers on their existing inventory of TNs.

C. Modifications to customer contracts

Level 3’s LI customers were not previously required by contract to identify the status of their TNs as “intermediate” or “assigned” to Level 3. Level 3 is in the process of updating its customer contracts to require such updates in order to ensure the accuracy of its reporting rolling customers on to the updated contracts. Given, however, that most of Level 3’s contracts have a one-year term, it will take Level 3 until the second quarter of 2016 to complete this process.

III. A Temporary Waiver is Justified

Under the Commission’s general waiver standards, the Commission will grant a waiver “for good cause shown.”¹⁰ Good cause, in turn, may be found and a waiver granted “where particular facts would make strict compliance inconsistent with the public interest.”¹¹ To make this public

⁹ Level 3 uses the Resource Inventory Management System (RIMS), a tool purchased from Neustar, Inc., to interact with the Pooling Administration and NANPA for block and code administration and to generate and submit its numbering utilization reports.

¹⁰ 47 C.F.R. § 1.3. *See also* *ICO Global Communications (Holdings) Limited v. FCC*, 428 F.3d 264 (D.C. Cir. 2005) (“*ICO Global Communications*”); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990) (“*Northeast Cellular*”); *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969) (“*WAIT Radio*”).

¹¹ *Northeast Cellular*, 897 F.2d at 1166; *see also* *ICO Global Communications*, 428 F.3d at 269 (quoting *Northeast Cellular*); *WAIT Radio*, 418 F.2d at 1157-59.

interest determination, the waiver cannot undermine the purposes of the rule, and there must be a stronger public interest benefit in granting the waiver than in applying the rule.¹²

Level 3 shares and fully supports the Commission's goals of ensuring consistency and accuracy in number reporting and limiting telephone number exhaust, and has worked diligently and in good faith to upgrade the relevant systems and contracts in light of the Commissions' clarification of the definitions of intermediate and assigned numbers. However, as demonstrated above, it is technically infeasible for Level 3 to report TN status for its LI customers consistent with that clarification by the February 1, 2016, deadline for the next report.

Accordingly, Level 3 hereby requests a temporary waiver of the requirement to classify TNs that Level 3 has provided to interconnected VoIP providers or other non-carrier entities but that have not necessarily been assigned to an end-user or customer by the receiving non-carrier entity as "intermediate" instead of "assigned." Grant of such a waiver will permit Level 3 to file a truthful and accurate utilization report on February 1, 2016, and to submit applications for growth numbering resources as necessary pending completion of the tasks identified above. Further, grant of such a waiver will allow Level 3 the time necessary to conform its systems and contracts to the Commission's clarification in the *Direct Access Order*, and will not hinder the achievement of the Commission's objectives. If the FCC grants such a waiver, Level 3 anticipates that it will complete the necessary upgrades in time for the reports due August 1, 2016.

Respectfully submitted,

/s/ Nicholas G. Alexander
Nicholas G. Alexander
Associate General Counsel, Federal Affairs
Level 3 Communications, LLC
1220 L Street, NW, Suite 660
Washington, DC 20005
(571) 730-6473
Nick.Alexander@Level3.com

¹² See, e.g., *WAIT Radio* at 1157 (stating that even though the overall objectives of a general rule have been adjudged to be in the public interest, it is possible that application of the rule to a specific case may not serve the public interest if an applicant's proposal does not undermine the public interest policy served by the rule); *Northeast Cellular*, 897 F.2d at 1166 (stating that in granting a waiver, an agency must explain why deviation from the general rule better serves the public interest than would strict adherence to the rule).