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April 22, 2016

Ex Parte

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

Re: Investigation of Certain Price Cap Local Exchange Carrier Business Data Services Tariff Pricing Plans, WC Docket No. 15-247; Special Access Rates for Price Cap Local Exchange Carriers, WC Docket No. 05-25; AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services, RM-10593

Dear Ms. Dortch:

On April 21, 2016, I, on behalf of Level 3 Communications, LLC (“Level 3”), spoke by telephone with Matt DelNero, Chief of the Wireline Competition Bureau, regarding the above-captioned matter.

I reiterated Level 3’s strong support for Chairman Wheeler’s proposal to declare incumbent LECs’ “all-or-nothing” commitment plans for business data services (“BDS”) to be unlawful, as well as the Chairman’s proposal to limit the excessive penalties incumbent LECs impose in connection with such services.¹

Consistent with Level 3’s prior advocacy, I further urged the Commission to adopt a “fresh look” for customers bound by these harmful lock-up provisions.² A fresh look for

¹ See Letter from Thomas Jones, Counsel for Level 3, to Marlene Dortch, Secretary, FCC, WC Docket Nos. 15-247, 05-25, RM-10593, at 1-2 (Apr. 21, 2016).

² See *id.*

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purchasers in this context is supported by Commission precedent³ and is a reasonable approach to address the harmful effects of these lock-ups, especially in light of the complexity of the various plans and their interrelation with the various overlay agreements customers have entered into. Moreover, the flexibility provided by a fresh look is an important benefit to such an approach. In contrast, it would likely be harmful if the Commission were, for example, either to nullify purchasers' existing plans or to require purchasers to remain in their current plans subject to existing volume commitment levels while making other changes prospectively that may make it difficult or impossible to count new purchases toward those commitments. Either of these alternatives could create an unnecessary risk of unintended consequences for affected purchasers and for competition more generally, or otherwise undermine the efficacy of the Commission's action. The Commission should be wary of adopting a remedy that has a potential to cause further harm and disruption for the very purchasers who have already been subject to the harms caused by the unlawful tariff provisions the Commission aims to eliminate.

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

Sincerely,

/s/ Joseph C. Cavender

Joseph C. Cavender

cc: Matt DelNero

³ See *id.* at 2 (citing Competition in the Interstate Interexchange Marketplace, Report and Order, 6 FCC Rcd. 5880 ¶ 151 (1991), *aff'd*, Memorandum Opinion and Order on Reconsideration, 7 FCC Rcd. 2677 ¶ 25 (1992)).