

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

The Utah Public Service Commission's )  
Petition For Delegation of Additional ) NSD File No. L-99-89  
Authority To Implement Number ) CC Docket No. 96-98  
Conservation Measures )

COMMENTS OF  
LEVEL 3 COMMUNICATIONS, INC.

Level 3 Communications, Inc. ("Level 3"), by undersigned counsel and pursuant to the Common Carrier Bureau's December 1, 1999 Public Notice,<sup>1</sup> submits its Comments in the above-captioned proceeding. Level 3 is a communications and information services company and is building an advanced Internet Protocol technology-based network across the United States, that will connect 25 cities. As a facilities-based provider of local services, Level 3 is dependent upon adequate access to numbering resources to serve customers and expand the geographic scope of its operations.

Level 3 welcomes the initiative on the part of the Utah Public Service Commission ("PSC") to address the problems associated with NXX code shortages. Indeed, Level 3's inability to obtain NXX codes and telephone numbers is one of the most significant, artificial barriers to competitive entry and expansion. In the end, Level 3 expects that the Commission will grant delegated authority to the Utah PSC consistent with its prior orders delegating additional authority to implement number optimization measures to the previous State petitioners.<sup>2</sup> While Level 3 does not necessarily concur with the full breadth of authority granted

<sup>1</sup> *Common Carrier Bureau Seeks Comment on the Utah Public Service Commission's Petition for Delegation of Additional Authority to Implement Number Conservation Measures*, NSD File No. L-99-89, DA 99-2675, Public Notice (rel. Dec. 1, 1999).

<sup>2</sup> *See, e.g., California Pub. Utils. Comm'n Petition for Delegation of Addt'l Authority Pertaining to Area Code Relief and NXX Code Consvrt'n Measures*, CC Docket No. 96-98, FCC 99-248 (rel. Sept. 15, 1999); *Florida Pub. Service Comm'n Petition to Federal Communications Comm'n for Expedited Decision for Grant of Authority to Implement Number Consvrt'n Measures*, CC Docket No. 96-98, FCC 99-249 (rel. Sept. 15, 1999) ("Florida Delegation Order"); *Massachusetts Dept. of Telecom. and Energy's Petition for Waiver of Section 52.19 to*

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to the State commissions in those prior decisions – nor with the full scope of authority requested by the PSC here – the arguments against certain aspects of the delegation of authority in those prior orders need not be repeated here.<sup>3</sup> Rather, Level 3 devotes these comments to addressing aspects of the PSC’s request for authority that go beyond that granted to other States in the prior orders. Specifically, the PSC’s proposals to expand deployment of local number portability (“LNP”) and implement unassigned number porting (“UNP”) are inconsistent with, and would go far beyond, this Commission’s prior rulings.

With respect to the first point, Level 3 observes that in the *New York Delegation Order*, the Commission conditioned the grant of pooling authority by stating that “[o]nly those carriers that have implemented LNP shall be subject to the trial. . . . [W]e do not grant the state commission the authority to require a carrier to acquire LNP solely for the purpose of being able to participate in a thousands-block pooling trial.”<sup>4</sup> Again, if the Commission is going to delegate authority to the states to implement number pooling the Commission should do so on consistent terms and conditions. Granting authority over LNP deployment to the Utah PSC would contradict the terms of the *New York Delegation Order* and undermine the carefully designed number portability schedule first established by this Commission over three years ago. Accordingly, the PSC’s request for expanded authority with respect to LNP should be rejected.

With respect to UNP, Level 3 notes that the Commission has rejected similar requests in the context of other petitions for delegated authority. For example, in the *Florida Delegation*

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*Implement Various Area Code Conservation Methods in the 508, 617, 781, and 978 Area Codes*, CC Docket No. 96-98, FCC 99-246 (rel. Sept. 15, 1999); *New York State Dept. of Pub. Service Petition for Add’tl Delegated Authority to Implement Number Consvrt’n Measures*, CC Docket No. 96-98, FCC 99-247 (rel. Sept. 15, 1999) (“*New York Delegation Order*”).

<sup>3</sup> Level 3 has commented on petitions filed in this docket by the following state commissions: Massachusetts (NSD File No. L-99-19), New York (NSD File No. L-99-21), Florida (NSD File No. L-99-35), California (NSD File No. L-98-136), Texas (NSD File No. L-99-55), Connecticut (NSD File No. L-99-62), and New Hampshire (NSD File No. L-99-71), and incorporates those comments by reference herein to the extent they address the scope of authority sought here by Utah. At the very least, Level 3 requests that the Commission’s grant of authority to the Utah PSC be subject to the same conditions placed upon the grants of authority to other state commissions. For example, it should be made crystal clear that a state is to plan only one pooling trial at a time (for a single MSA), and that a “back-up” area code relief plan must be ready to go *immediately* if a state is going to explore pooling first.

<sup>4</sup> *New York Delegation Order*, at ¶ 15.

*Order*, the Commission found that unassigned number porting is in a developmental process and not appropriate for implementation at this time.<sup>5</sup> Furthermore, this proposed number conservation mechanism is the subject of detailed consideration in a pending Commission rulemaking.<sup>6</sup> Indeed, a 1998 Report of the North American Numbering Council (upon which the rulemaking was largely based) makes clear that the implementation of UNP at this point should be a federal question: “The provisioning methodologies, administrative procedures and interfaces used to support UNP shall be uniform nationwide.”<sup>7</sup> Granting the requested relief to the PSC would violate this uniformity principle, and prejudice the careful consideration of UNP under way in the numbering administration rulemaking proceeding.

Respectfully submitted,



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Dated: January 7, 2000

Counsel for Level 3 Communications, Inc.

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<sup>5</sup> *Florida Delegation Order*, at ¶ 42.

<sup>6</sup> *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200, Notice of Proposed Rulemaking (rel. June 2, 1999).

<sup>7</sup> Number Resource Optimization Working Group, *Modified Report to the North American Numbering Council on Number Optimization Methods* (Oct. 20, 1998) at § 6.2.5.

**CERTIFICATE OF SERVICE**

I, Michael R. Romano, hereby certify that I have on this 7th day of January, 2000, served copies of the foregoing Comments of Level 3 Communications, Inc. via hand delivery\* and by overnight delivery.

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