

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

3000 K STREET, NW, SUITE 300  
WASHINGTON, DC 20007-5116  
TELEPHONE (202)424-7500  
FACSIMILE (202) 424-7647

NEW YORK OFFICE  
919 THIRD AVENUE  
NEW YORK, NY 10022

March 16, 2000 **DOCKET FILE COPY ORIGINAL**

VIA HAND DELIVERY

Magalie Roman Salas  
Commission Secretary  
Federal Communications Commission  
Portals II  
445 12th Street, S.W., Suite TW-A325  
Washington, D.C. 20554

**RECEIVED**  
**MAR 16 2000**  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

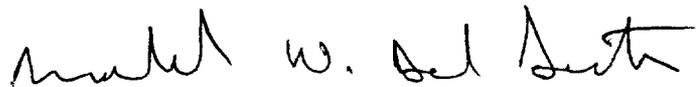
Re: File No. NSD-L-00-16; CC Docket 96-98 } Comments of Level 3  
Communications, Inc.

Dear Secretary Salas:

On behalf of Level 3 Communications, Inc. ("Level 3"), enclosed please find an original and four (4) copies of Level 3's comments in the above-referenced docket. Please date stamp and return the enclosed extra copy. Concurrent with this filing, Level 3 is submitting two (2) copies of its comments to the Network Services Division.

Should you have any questions with respect to this matter, please do not hesitate to call Ron Del Sesto at (202) 945-6923.

Respectfully submitted,



Ronald W. Del Sesto, Jr.

Enclosure

No. of Copies rec'd 014  
List ABCDE

**Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

|   |   |                      |
|---|---|----------------------|
| In the Matter of                        | ) |                      |
|   | ) |                      |
| Colorado Public Utilities Commission's  | ) |                      |
| Petition for Delegation of Additional   | ) | NSD File No. L-00-16 |
| Authority to Implement Number           | ) |                      |
| Resource Optimization Measures          | ) |                      |
|   | ) |                      |
|   | ) |                      |
| Implementation of the Local Competition | ) |                      |
| Provisions of the Telecommunications    | ) | CC Docket No. 96-98  |
| Act of 1996                             | ) |                      |

**RECEIVED**  
**MAR 16 2000**  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**COMMENTS OF  
LEVEL 3 COMMUNICATIONS, LLC**

Level 3 Communications, LLC ("Level 3"), submits these comments in response to the Common Carrier Bureau's Public Notice of February 16.<sup>1</sup> 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 depends upon adequate access to numbering resources to serve customers and expand the geographic scope of its operations.

Level 3 welcomes the initiative of the Colorado Public Utilities Commission ("Colorado Commission") to address the problems associated with NXX code shortages. The inability to obtain NXX codes and telephone numbers is one of the most significant, artificial barriers to market entry and expansion by new entrants. Level 3 anticipates that the Federal Communications Commission ("FCC") will grant delegated authority to the Colorado

---

<sup>1</sup> *Common Carrier Bureau Seeks Comment on the Colorado Public Utilities Commission Petition for Delegation of Additional Authority to Implement Number Resource Optimization Measures*, NSD File No. L-00-16, Public Notice, DA 00-295 (rel. Feb, 16, 2000).

Commission consistent with its prior orders delegating additional authority to implement number optimization measures to other state petitioners.<sup>2</sup> While Level 3 does not concur with the breadth of authority granted to the state commissions in those prior decisions – nor with the full scope of authority requested here – the arguments against certain aspects of the delegation of authority in those prior orders need not be repeated here.<sup>3</sup> Rather, these comments address implementation issues associated with number pooling trials.

First, Level 3 asks the FCC to clarify the ability of states to expand number pooling trials to additional MSAs. Second, consistent with prior orders, the FCC should allow the use of fill rates only in relation to a carrier's request to obtain growth codes. Third, due to the numerous states receiving delegated authority to engage in number conservation measures, Level 3 asks that the FCC require the Colorado Commission to coordinate its number conservation regime

---

<sup>2</sup> See, e.g., *California Pub. Utils. Comm'n Petition for Delegation of Additional Authority Pertaining to Area Code Relief and NXX Code Conservation Measures*, CC Docket No. 96-98, FCC 99-248 (rel. Sept. 15, 1999) (“*California Delegation Order*”); *Florida Pub. Service Comm'n Petition to Federal Communications Comm'n for Expedited Decision for Grant of Authority to Implement Number Conservation 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 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) (“*Massachusetts Delegation Order*”); *New York State Dept. of Pub. Service Petition for Additional Delegated Authority to Implement Number Conservation Measures*, CC Docket No. 96-98, FCC 99-247 (rel. Sept. 15, 1999) (“*New York Delegation Order*”); *Maine Pub. Utils. Comm'n Petition for Additional Delegated Authority to Implement Number Conservation Measures*, CC Docket No. 96-98, FCC 99-260 (rel. Sept. 28, 1999) (“*Maine Delegation Order*”); *Connecticut Dept. of Pub. Util. Control Petition for Delegation of Additional Authority to Implement Area Code Conservation Measures*, CC Docket No. 96-98 (rel. Nov. 30, 1999); *New Hampshire Pub. Utils. Comm'n Petition for Additional Delegated Authority to Implement Number Optimization Measures in the 603 Area Code*, CC Docket No. 96-98 (rel. Nov. 30, 1999); *Petition of the Ohio Pub. Utils. Comm'n for Delegation of Additional Authority to Implement Number Conservation Measures* (rel. Nov. 30, 1999) (“*Ohio Delegation Order*”); *Petition of the Pub. Util. Comm'n of Texas for Expedited Decision for Authority to Implement Number Conservation Measure*, CC Docket No. 96-98 (rel. Nov. 30, 1999); *Petition of the Pub. Service Comm'n of Wisconsin for Delegation of Additional Number Conservation Measures* (rel. Nov. 30, 1999).

<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), New Hampshire (NSD File No. L-99-71), Utah (NSD File No. L-99-89), and Pennsylvania (NSD File No. L-99-101) and incorporates those comments herein to the extent applicable to the PUC's request. At the very least, Level 3 requests that the Commission's grant of authority to the Arizona Commission here be subject to the same conditions placed upon the grants of authority to other state commissions, and that the Commission clarify precisely the scope of authority delegated to the states. 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), that a “back-up” area code relief plan must be ready to go *immediately* if a state is going to explore pooling first, and that any reclamation of numbers in connection with (or in preparation for) a pooling plan must be done subject to the restrictions placed on the state's ability to implement that pooling plan.

with other state commissions engaging in similar activities. Finally, Level 3 requests that the FCC direct the Colorado Commission to consider a number of important factors in establishing a fill rate requirement.

While the FCC has granted numerous state commissions the authority to engage in thousands block number pooling, Level 3 requests that the FCC clarify its delegation of authority in the expansion of pooling trials. In granting various state commissions authority to engage in thousands block number pooling trials, the FCC has made clear that only after full implementation in one MSA may state commissions expand the trial to additional MSAs. Carriers must engage in various time consuming tasks to prepare for a number pooling trial. The industry must be able to take all the necessary steps that are required for such implementation. It is impossible to predict the complications that will arise and forecast the demand for ported numbers in each MSA. Some state commissions have interpreted the FCC's delegation of authority to mean that so long as a number pooling trial has been initiated in a certain MSA, they may then expand the trial into another MSA before fully implementing the number pooling trial in the original MSA. Given the uncertainties of the pooling process, state commission must allow carriers time to prepare for number pooling and implement trials one MSA at a time.

The Colorado Commission has also requested authority to establish fill rates and allocation standards for thousands blocks.<sup>4</sup> It is unclear as to how the Colorado Commission intends to use a fill rate and allocation standard regime since the petition devotes one sentence to the request. Level 3 asks that the FCC limit the application of a fill rate requirement to growth codes as it has done in prior orders.<sup>5</sup>

Further, the FCC should ensure that carriers do not have to comply with inconsistent number conservation regimes throughout the growing number of states that continue to receive additional delegated authority to engage in number conservation measures. While in previous

---

<sup>4</sup> See *Colorado Petition* at 2.

<sup>5</sup> See, e.g., *Massachusetts Delegation Order* at ¶ 31; *New York Delegation Order* at ¶ 25.

orders the FCC has requested that state commissions consult with one another prior to establishing number conservation measures,<sup>6</sup> the time has come for the FCC to mandate such coordination among the numerous states implementing number conservation measures.

Finally, the FCC should require the Colorado Commission to consider the same factors that the FCC is evaluating in its *Numbering Resource Optimization* proceeding in establishing a fill rate.<sup>7</sup> For instance, there are a myriad of important factors that would impact the development and implementation of utilization thresholds that the Colorado Commission must consider before establishing a fill rate. For example, how will the utilization rate be calculated? Will it be on the basis of all the numbering resources that a carrier holds throughout a NPA, or will the calculation be limited to only the NXX codes that have been assigned in the rate center in which the applicant wants an additional code? Should applicants have the ability to exclude newly acquired codes when calculating fill rates? What type of numbers count as utilized in determining a carrier's fill rate? For example, do carriers count reserved numbers, numbers allocated to resellers, and numbers reserved in dealer numbering pools, or are certain categories of numbers excluded?<sup>8</sup> Rather than allowing the Colorado Commission to mandate fill rates without consideration of these important factors, the FCC should require consideration of the above questions by the Colorado Commission.

---

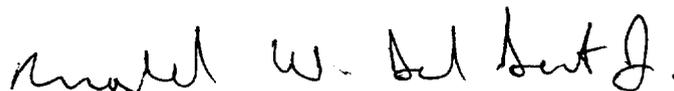
<sup>6</sup> See, e.g., *California Delegation Order* at ¶ 27; *Florida Delegation Order* at ¶ 31; *Maine Delegation Order* at ¶ 13; *Massachusetts Delegation Order* at ¶ 33; *New York Delegation Order* at ¶ 27; *Ohio Delegation Order* at 14.

<sup>7</sup> See *Number Resource Optimization, Notice of Proposed Rulemaking*, CC Docket No. 99-200, FCC 99-122 (rel. June 2, 1999) [hereinafter *Numbering Resource Optimization*].

<sup>8</sup> The FCC considers all of these factors relevant to calculating a prescribed fill rate for carriers. See *id.* at ¶¶ 63-67.

For the reasons explained in its prior filings on various state commission petitions, Level 3 asks that the FCC complete its own numbering administration rulemaking prior to delegating substantial additional authority to the states in this area. Level 3 recognizes that several state commissions have already received additional numbering authority including the authority the Colorado Commission seeks. However, the FCC should (1) clarify its grant of delegated authority regarding expanding number pooling trials to additional MSAs; (2) allow the use of fill rates only in relation to growth codes; (3) mandate that the Colorado Commission coordinate with other state commissions in establishing its number conservation regime; and (4) require the Colorado Commission to consider the same factors when establishing a fill rate for carriers that the FCC is evaluating in its *Number Resource Optimization* proceeding.

Respectfully submitted,



William P. Hunt, III  
Greg Rogers  
Level 3 Communications, Inc.  
1025 Eldorado Boulevard  
Broomfield, CO 80021  
(720) 888-2516 (Tel)  
(720) 888-5134 (Fax)

Russell M. Blau  
Ronald W. Del Sesto, Jr.  
Swidler Berlin Shereff Friedman, LLP  
3000 K Street, N.W., Suite 300  
Washington, D.C. 20007  
(202) 424-7500 (Tel)  
(202) 424-7645 (Fax)

Dated: March 16, 2000

Counsel for Level 3 Communications, Inc.