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January 10, 2001

EX PARTE – Via Electronic Filing

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, DC 20554

Re: *Ex Parte* Communication
Inter-Carrier Compensation for ISP-Bound Traffic
CC Docket 99-68

Dear Ms. Salas:

Today, I spoke with Kyle Dixon of Commissioner Powell's office. I addressed the points outlined below.

Level 3 supports the Commission's efforts to bring compensation for terminating local traffic to costs, but believes that the appropriate resolution of the reciprocal compensation issue depends on the longer-term view of the appropriate structure for all intercarrier compensation. Deciding selectively to move one form of intercarrier compensation to bill and keep would skew industry incentives to reach a coordinated, comprehensive intercarrier compensation scheme, and may tend to lock in "bill and keep" without a full understanding of the consequences of doing so.

Furthermore, mandating bill and keep for dial-up ISP-bound traffic would depart from the Commission's long-standing view of the caller as cost-causer for usage sensitive costs. The CLEC terminating the ILEC's customer's call does sustain some cost, and under existing precedents and rules merits cost-based compensation. While recent FCC staff studies suggest that traditional theories of cost-causation may warrant review, such a fundamental change should be undertaken within the context of a comprehensive inquiry on intercarrier compensation, so that the Commission has a full appreciation of the economic and policy consequences of its decision.

Finally, transitional caps on reciprocal compensation based on ratios of inbound to outbound traffic, with no compensation above the cap, are wholly arbitrary, have no relationship to cost, and are technologically biased against next generation packet networks. Given the present development of IP services, a carrier must use circuit switches in order to generate significant volumes of local outbound traffic. For carriers using IP networks like Level 3, caps based on ratios of inbound to outbound traffic therefore immediately impose bill-and-keep, creating no transition. In addition, there is simply no relationship between the relative proportion of outbound traffic to inbound traffic and cost. Even when there are no minutes of origination, there are costs of termination. Even if there are scale economies, the cost of a minute of termination does not change based on the relative proportion of minutes of origination. Accordingly, any formula should provide for compensation for traffic above any cap, as is the case with the Level 3/Verizon interconnection agreement.

In accordance with Commission rules, a copy of this letter is being filed electronically in the above-captioned docket.

Sincerely,

/s/

John T. Nakahata

JTN/krs