

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

In the Matter of )  
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AT&T Petition for Declaratory Ruling that )  
AT&T.s Phone-to-Phone IP Telephony ) WC Docket No. 02-361  
Services are Exempt from Access Charges )  
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To the Commission:

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**Comments of Level 3 Communications, LLC**

December 18, 2002



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**I. INTRODUCTION AND SUMMARY**

November 2002: Vonage begins offering Voice over Internet Protocol (VoIP) service in Central New York.<sup>1</sup> December 2002: “Crate and Barrel unwraps VoIP network”<sup>2</sup> and

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<sup>1</sup> Knauss, Tim, “*Company Offers Internet Phone Services in CNY*,” The Post Standard (Nov. 30, 2002), <http://www.vonage.com/press/news/113002.phtml>

<sup>2</sup> Hochmuth, Phil, “*Crate & Barrel unwraps VoIP network*,” NetworkWorldFusion (Dec. 09, 2002), <http://www.nwfusion.com/cgi-bin/mailto/x.cgi>

“IBM Launches Voice-Over IP Network Services.”<sup>3</sup> The headlines are everywhere confirming analyst and industry reports that VoIP services are not just the wave of the future, but providing cost savings and generating new revenue for early adopter-customers who demand these innovative new services today. The Commission should not, however, interpret the news reports as a sign that VoIP providers are fearlessly rolling-out such applications. As described by AT&T, circuit switched transmissions dominate interexchange voice now and will do so for the foreseeable future.<sup>4</sup> In fact, the triumphant headlines mask a very real disincentive for deployment that has been lurking in the shadows for some time – regulatory uncertainty.

On October 18, 2002, AT&T filed a petition for declaratory ruling (“Petition”) with the Commission seeking a determination that (1) VOIP services that are carried over the Internet are entitled to subscribe to local services and are permanently exempt from any requirement that they subscribe to access services or pay above-cost access charges; and (2) all other phone-to-phone IP and VOIP telephony services are exempt from access charges unless and until the FCC adopts regulations that prospectively provide otherwise. Although, as detailed in AT&T’s Petition, providers are beginning to deploy VoIP applications as customers demand these innovative, cost-saving services, providers are doing so slowly and

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<sup>3</sup> “*IBM Launches Voice-Over-IP Network Services*,” Yahoo! News (Dec. 12, 2002), <http://www.itweb.co.za/sections/networking/2002/0212120906.asp?O=SLF>

<sup>4</sup> AT&T Petition at 10.

with some trepidation. Will the local exchange carriers begin demanding access charges for applications that regulators have heretofore treated primarily as information or enhanced services exempt from such legacy monopoly era regulation? Or must regulators acknowledge that stretching legacy definitions to cover emerging technologies will deter the deployment of the most efficient technologies and networks? The threat that incumbent local exchange carriers may unilaterally decide to impose the current interstate access charge regime on VoIP applications may prevent many providers from realizing the true economic efficiencies associated with the provision of integrated voice and data services, thereby depriving consumers of the full range of product innovation.

The increasing deployment of Internet protocol (IP)-based networks presents a significant challenge to the Commission to establish a more efficient intercarrier compensation regime. IP-based services do not fit easily into the legacy regulatory classifications that provide the foundation for the current interstate access regime and should not be "force fit" into those categories. Rather than attempt to draw imprecise lines that place IP applications into existing, technologically irrelevant categories, the Commission should act now to confirm that even when some VoIP services could reasonably be classified as "telecommunications services," VoIP is not now subject to the interstate access charges

applicable to circuit-switched voice traffic. In addition, the Commission should resolve to adopt a comprehensive intercarrier compensation regime on an expedited basis.<sup>5</sup>

Permitting providers to offer VoIP applications and services without the threat of the imposition of interstate access charges on this traffic will ensure that carriers deploying advanced technologies reap the benefits of the cost savings inherent in these technologies. Such a regime should, therefore, lead to additional investment in VoIP technologies and more efficient network deployment and usage by end-user customers.

## **II. Background**

### **A. About Level 3 Communications**

Level 3 is a communications and information services company with the first international communications network completely optimized, end-to-end, for advanced IP technology. Level 3 offers IP-based services, including broadband transport, submarine transmission services, and the industry's first softswitch-based services. Level 3 offers transport and bandwidth services primarily to other carriers, Internet services providers

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<sup>5</sup> In its comments in the Commission comprehensive intercarrier compensation proceeding, *Developing a Unified Intercarrier Compensation Regime*, Notice of Proposed Rulemaking, CC Docket No. 01-92, FCC 01-132 (rel. Apr. 27, 2001) (*Intercarrier Compensation Notice*), Level 3 advocates moving the intercarrier compensation regime to a forward-looking cost based model so that carriers are compensated for the functionality provided with a reasonable profit. Level 3 acknowledges, however, that determining those costs may be time consuming, litigious, require considerable financial resources from carriers and regulators. Therefore, Level 3 recommends that the Commission also consider a bill and keep compensation scheme.

(ISPs), application service providers (ASPs), and voice-over-IP service providers who utilize substantial amounts of bandwidth to deliver their services. Level 3's network is designed with softswitch architecture,<sup>6</sup> which is a distributed set of hardware and software platforms that are used to seamlessly interconnect IP networks to the circuit switched network. Under a softswitch architecture, core switching functions are not handled in a single unit, such as in a circuit switch network. Instead, switching functions are distributed throughout the network. The result is a pure IP network that interoperates with the existing public network.

Although Level 3's all IP softswitch-based network architecture is constructed to take full advantage of the rapidly decreasing costs of moving information in packetized form, consumers will not benefit from the pace of technological change that drives those costs down unless companies offering those advanced services are able to interconnect and exchange traffic with the existing public circuit switched network without being saddled with the economic inefficiencies of those legacy networks inherent in the current interstate access charge regime.

### **B. VoIP Includes a Wide Variety of Network Architectures, Technologies and Applications**

Voice over IP, as it is continuing to evolve in the marketplace and outside the telecommunications regulatory structure, is highly dynamic and not capable of easy

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<sup>6</sup> Level 3's all IP network contains no circuit switches.

encapsulation. In its Petition, AT&T describes one variation on IP network architecture where calls are sent and received in voice (TDM) protocol.<sup>7</sup> As AT&T recognizes, providers are also offering quality computer-to-computer and computer-to-phone (and vice versa) calls.

For all types of VoIP services, the application uses the Internet protocol to transmit voice as packetized data over IP networks in real time. Typically, a call traversing an IP network that is interconnected for termination on the public switched network (PSTN) goes through the following steps. First, the communication is originated by an IP phone or by a piece of customer premises equipment (computer or IP conversion device) and delivered to the caller's VoIP provider. This can occur on any IP-network, whether wireline or wireless, cable or DSL. The IP network determines whether the communication will terminate on- or off-net which can include the PSTN. If the communication terminates on another IP device it is simply delivered to that device. If the communication must be terminated to a circuit switched telephone on the PSTN, the call is delivered from the originating local exchange carrier to the IP network via IP media and signaling gateways. Generally, the gateway converts the call from Time Division Multiplexing (TDM) format to an IP-based format. Next, the packets are delivered via the IP network to the terminating media gateway nearest to the destination of the call. The call is then converted from IP format back to a format accepted by the appropriate terminating carrier (such as TDM), at which point the call is

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<sup>7</sup> AT&T Petition at 11.

terminated. A call may also originate in the PSTN and terminate on an IP end point, in which case, there is no need for a terminating media gateway.

Level 3 recognizes that there is a narrow range of limited services that are not integrated with information storage, processing, or retrieval capabilities and that such services may be classified by the Commission as “telecommunications services.” Most current and future VoIP products, however, continue to evolve into a service that falls within the definition of “enhanced services” under section 64.702(a) of the Commission’s rules and “information services,” as defined in Section 3(20) of the Communications Act of 1934. As noted by AT&T, it is critical that the Commission recognize that the tentative distinction between computer-to-computer and phone-to-phone services are becoming increasingly difficult to sustain as technology progresses.

### **III. Discussion**

#### **A. The FCC’s 1998 Report to Congress Correctly Concluded that Many VoIP Services are Information Services, Not Telecommunications Services**

To the extent they provide “enhanced services,” VoIP providers are not today subject to interstate access charges, as has been true since 1983.<sup>8</sup> At the time it created a formal

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<sup>8</sup> See *In the Matter of Federal-State Joint Board on Universal Service*, Report to Congress, 13 FCC Rcd 11501, 11516, para. 84, 89 (1998) (*Report to Congress*) (the “1996 Act’s definitions of telecommunications

access charge regime for the origination of interstate toll calls, the Commission was also faced with the question of how to treat calls to providers of information (then called enhanced) services, and the information services themselves: would these be treated as intrastate common carrier services subject to state regulation, interstate common carrier services, or something else, and would calls to these information services be assessed interstate access charges, intrastate access charges, or no access charges? In separate proceedings the Commission ruled that enhanced services were not common carrier services, and it preempted state regulation of enhanced services using its Title I jurisdiction.<sup>9</sup> In addition, the Commission determined that it would treat providers of enhanced services as end-users, as opposed to carriers, for purposes of interstate access charges. As such, enhanced service providers (ESPs) were "exempt" from access charges, and obtained service from their local telephone companies under intrastate tariffs.<sup>10</sup> Only *carriers* that interconnect with local

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service and information service essentially correspond to the pre-existing categories of basic and enhanced services.”).

<sup>9</sup> See *Amendment of Section 64.702 of the Commission's Rules and Regulations*, 77 FCC 2d 384 (1980) (*Computer II*). The Commission defines “enhanced services” as “services, offered over common carrier transmission facilities used in interstate communications, which employ computer processing applications that act on the format, content, code, protocol or similar aspects of the subscriber’s transmitted information; provide the subscriber additional, different, or restructured information; or involve subscriber interaction with stored information.” 47 C.F.R. § 64.702(a). The 1996 Act describes these services as “information services.” See 47 U.S.C. § 153(20) (“information service” refers to the “offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications.”).

<sup>10</sup> See *MTS and WATS Market Structure Order*, 97 FCC 2d at 715 (ESPs have been paying local business service rates for their interstate access and would experience rate shock that could affect their viability if full access charges were instead applied); see also *Amendments of Part 69 of the Commission's Rules Relating to Enhanced Service Providers*, CC Docket 87-215, Order, 3 FCC Rcd 2631, 2633 (1988) (*ESP Exemption Order*) (“the imposition of access charges at this time is not appropriate and could cause such disruption in this industry segment that provision of enhanced services to the public might be impaired”); *Access Charge Reform*, CC Docket No. 96-262, First Report and Order, 12 FCC Rcd 15982, 16133 (1997) (*1997 Access Charge Reform Order*), *aff'd*, *Southwestern Bell Telephone Co. v. FCC*, 153 F.3d 523 (8<sup>th</sup> Cir. 1998

exchange carriers are required to pay interstate or intrastate access charges. In 1997, the Commission once again reaffirmed this treatment of “enhanced service providers.”<sup>11</sup> As the Commission noted at that time, “the access charge system contains non-cost-based rates and inefficient rate structures,” problems that have only been partially addressed.<sup>12</sup> The Commission further observed that “the access charge system was designed for basic voice telephony provided over a circuit-switched network, and even when stripped of its current inefficiencies it may not be the most appropriate pricing structure for Internet access and other information services.”<sup>13</sup>

In its most recent examination of the telecommunications and information services distinction, the Universal Service Report to Congress (“*Report to Congress*”),<sup>14</sup> the Commission developed three basic models for VoIP, but deferred making definitive pronouncements about the regulatory status of the various forms of IP services: computer-to-computer, computer-to-phone, and phone-to-phone. It is perhaps clearer to rephrase this as packet device to packet device (all IP), packet device to circuit switched device, or vice versa (convergent traffic), and circuit-switched device to circuit-switched device (dial-up gateway service). The packet device could be a computer, customer premise equipment that converts an ordinary phone signal into IP bits before being placed on a data network, or an IP handset.

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(“[m]aintaining the existing pricing structure ... avoids disrupting the still-evolving information services industry.”)

<sup>11</sup> See *Matter of Access Charge Reform*, 12 FCC Rcd 15982, 16131-32 para. 341 (1997).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Universal Service Report to Congress*, 13 FCC Rcd at 11543-44, paras. 87-89.

As AT&T details in its Petition at pages 13-14, the Commission made tentative determinations that addressed “emerging services” and emphasized that it could not make “definitive pronouncements” until it had a more complete record “focused on individualized service offerings.”<sup>15</sup> The Commission found that computer-to-computer calls (that enter and exit the network in IP) and phone-to-phone calls (that enter and exit in voice (TDM) protocol) constitute “telecommunications. With regard to “phone-to-phone IP telephony,” the Commission tentatively reached the opposite conclusion stating that such services appear to “bear the characteristics of telecommunications services.”<sup>16</sup> Moreover, the Commission noted that there are a “wide range of services that can be provided using packetized data and innovative CPE” and that future proceedings would have to determine if its tentative definitions had “accurately distinguish[ed] between phone-to-phone and other forms of IP telephony” and was not “likely to be quickly overcome by changes in technology.”<sup>17</sup>

The *Report to Congress* also stated that future proceedings would also address the regulatory obligations that would apply to “phone-to-phone” providers if they were held to be providing “telecommunications services” and thus to be “telecommunications carriers.”<sup>18</sup> The

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<sup>15</sup> *Id.* at para. 90.

<sup>16</sup> *Report to Congress* at para. 89.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at para 91.

Commission acknowledged that there was one necessary consequence to such a classification, for providers of telecommunications services “fall within section 254(d)’s mandatory requirement to contribute to universal service mechanisms.”<sup>19</sup>

**B. Even When Some VoIP Services are "Telecommunications Services," VoIP Should Not Now be Subject to the Interstate Access Charges Applicable to TDM Traffic**

Level 3 supports AT&T’s argument that the Commission should adopt a regulatory regime that exempts VoIP services from the current interstate access charge regime. By exempting all VoIP services, the Commission will create a regulatory environment that will allow nascent and emerging VoIP technologies to grow and thrive. Moreover, as explained by AT&T, it is becoming increasingly difficult to justify any regulatory distinction between phone-to-phone, computer-to-phone, and computer-to-computer VoIP. Even simple voice communications between two VoIP users will frequently resemble the “computer-to-computer” IP telephony described in the *Report to Congress* irrespective of whether the communication originates and terminates on an ordinary telephone handset.<sup>20</sup> Even when the caller uses an ordinary handset, a “call” will be initiated by a user with customer premise equipment (“CPE”) – whether a personal computer (“PC”) or a smaller, specialized device -- that takes the caller’s voice, packetizes it and transmits it over the subscriber’s Internet access

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<sup>19</sup> *Id.* at para. 92.

<sup>20</sup> *Federal-State Joint Board on Universal Service, Report to Congress*, 13 FCC Rcd 11,501 (1998).

service. Those packets will be indistinguishable from other types of IP packets traversing those networks.<sup>21</sup> The “call” is then reassembled by the CPE of the called party.<sup>22</sup> This communication between two VoIP users will require CPE – either in the form of an IP handset, a computer, or some other device that packetizes the voice input – other than or in addition to the CPE necessary to place an ordinary touch-tone call over the public switched telephone network.<sup>23</sup>

Even for IP calls that originate and terminate on the PSTN (circuit-switched to circuit-switched calls) as described in AT&T’s Petition,<sup>24</sup> what the Commission said in the *Report to Congress* remains true: it is difficult categorically to call even these services “telecommunications” services as opposed to “information” services. Because VoIP is an application provided on a multifunctional network, much like word processing is an application loaded on a desktop computer, even circuit switched to circuit switched VoIP can be integrated with other applications such that the service qualifies as an information service (or enhanced service under *Computer II*). A circuit-switched to circuit switched VoIP call could also have enhanced functions that render that call an information service.<sup>25</sup>

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<sup>21</sup> *See id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> AT&T Petition at pp. 13-14.

<sup>25</sup> *See* Jonathan Weinberg, “Internet Telephony Regulation”, *Internet Telephony* (MIT 2001).

### **C. Applying Access Charges to TDM-TDM VoIP Applications Could Create Additional Operational Cost Barriers to VoIP Deployment**

In addition to the policy considerations that weigh against treating “phone-to-phone” IP telephony services differently, the Commission should also take account of the operational and technical considerations that will affect the exchange of VoIP traffic between providers. Specifically, the Commission should consider whether it is truly possible to segregate certain categories of VoIP traffic (e.g., TDM-to-TDM) from other categories of VoIP traffic (e.g., TDM-to-IP) provided over the same platform. Moreover, even if such traffic categories could be identified and segregated, the Commission should consider the network inefficiencies that would result from the separate routing of traffic – the competitive implications and cost of requiring potentially redundant network facilities to handle traffic that from an engineering perspective need not go over different facilities.

#### **1. Any Policy that Would Rely upon Segregating “Phone-to-Phone” VoIP Traffic from other types of VoIP Traffic Requires Much Further Analysis Prior to Implementation**

Absent further consideration of the technical and operational aspects of specific VoIP services, their applications in the market, and their true impact upon circuit switched networks, the Commission should decline to implement any policy that would result in the need to identify (for compensation purposes) and potentially segregate (for routing purposes) different categories of VoIP traffic. Indeed, in the context of many VoIP services, it will likely be the case that one cannot easily identify whether the voice call in question originates from a computer or a telephone such that the call can be categorized easily for either compensation or routing purposes. Part of the concern will be definitional. For example,

what if a call placed to or from an IP-enabled telephone? That call (which originates or terminates in IP) would undergo a net protocol conversion if the other destination is TDM, such that it should be considered “enhanced” or part of an “information” service under the Commission’s rules and the Act. Yet, would a strict “phone-to-phone” definition require that such a call be subject to access charges? Another concern is that a “phone-to-phone” distinction relies upon increasingly anachronistic technological assumptions. For example, how does one classify an IP-enabled voice service that permits calls placed from phones on the public (circuit) switched telephone network to be routed to any of several destinations via IP addresses, one or more of which may be “TDM” or “IP,” and one or more of which could be a computer or a telephone? Even putting aside the technical details of defining a telephone as discussed above, attempting to categorize such a service based upon whether a given call ends up at a “telephone” or a “computer” could effectively put VoIP providers in the position of policing the equipment at their customers’ various premises on a *call-by-call* basis (or, in case of call forwarding, on a section-of call basis). The burden of such an endeavor would likely be enormous, if it could be achieved at all. Moreover, any requirement to identify and track “phone-to-phone” VoIP transmissions could raise privacy concerns, since a provider of multiple IP services (voice, data, fax, etc.) may have to determine the nature of the packet itself.

In short, regulations designed for circuit-switched networks make little technical sense in an environment where packet switching, Internet Protocol transmission protocols, optical switching, and decreasing transport costs permit more efficient networks and provide greater flexibility for customer applications. The nature of IP-based services could make

enforcement of traditional regulatory classifications next to impossible. Internet Protocol technology blurs traditional distinctions between local and long distance service and between voice, fax, data, and video services. The fundamental design of Internet Protocol networks converts all forms of information into indistinguishable packets of digital bits. Packets are routed through networks based on a non-geographical, non-hierarchical addressing scheme that allows packets to follow several possible routes between network nodes. Additionally, as discussed above in one of the examples provided, Internet Protocol technology allows users to designate multiple “ports” on their terminals so that multiple applications may simultaneously send and receive information. This means that in the streams of packets flowing to a particular terminal, some may be carrying digitized voice messages, others may be carrying a computer program being downloaded from a remote server, and others may be carrying video entertainment – while other still may just carry the signaling information for such a media stream that may or may not flow to or from that specific terminal. Some may end up at a computer terminal, while others end up at an IP-enabled telephone, while others still end up at a standard telephone station on the PSTN. Thus, before making any finding that “phone-to-phone” VoIP telephony is in fact subject to access charges, the Commission must address the technical and operational concerns that will inevitably arise in trying to enforce such differential treatment. In this case, “one-size-fits-all” regulations designed in the context of a historical circuit switched network simply may not work in an evolving IP environment.

## **2. Requiring Separate Network Facilities for “Phone-to-Phone” IP Telephony Calls Would Be Inefficient and Costly to Consumers and Innovation**

Even if one were to assume that all of the technical and operational details such as those identified above could somehow be ironed out quickly and easily, one still must face the question of whether it makes sense from a network perspective to treat phone-to-phone VoIP services differently from other such services. In particular, one must question any policy that would require that phone-to-phone VoIP traffic be routed over different (access) facilities than other VoIP services in order to clearly identify such “phone-to-phone” traffic for compensation purposes.

As AT&T notes on page 30 of its Petition, today “all phone-to-phone and computer-to-phone services are terminated in precisely the same way . . . .” Yet, it could be the case that the requirement to treat such services differently for compensation purposes would result in the requirement to deploy separate network facilities just to handle such traffic. This expectation is not entirely speculative – indeed, in the wake of this Commission’s Order on Remand and Report and Order in CC Dockets No. 96-98 and 99-68, various incumbents have taken the Commission’s decision to treat traffic destined for Internet Service Providers (“ISPs”) differently for compensation purposes as an excuse to demand that all ISP-bound traffic be routed over separate (more expensive) network facilities paid for by the competitor and devoted exclusively to the exchange of such traffic. The Commission therefore must

carefully consider the “downstream” implications of perpetuating policies that treat any particular minute of traffic differently from any other for compensation purposes.<sup>26</sup> In this case, if incumbents are allowed to treat “phone-to-phone” IP telephony differently for compensation purposes, they may very well seize upon that as a motivation to discriminate against such traffic in other respects as well.

In the end, such tactics will only drive up costs for other providers and thereby stifle innovation and suppress customer demand. There is no technical reason to require the establishment of separate facilities just to handle “phone-to-phone” IP telephony as compared to other forms of VoIP services (or any other services). If such segregation of traffic is permitted or encouraged, providers may have to deploy redundant facilities to handle various kinds of traffic when a single facility would otherwise suffice. In turn, the artificial regulatory cost of establishing these duplicative facilities would likely have to be passed along to consumers, making VoIP services cost more for the customer. Thus, even if the Commission ultimately decides that phone-to-phone IP telephony should be subject to switched access charges or some other more appropriate compensation mechanism notwithstanding all of the

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<sup>26</sup> Former Commissioner Ness captured this succinctly in the *Intercarrier Compensation NPRM*, noting that for a single minute of traffic going over the same network facilities, it is possible that several different compensation mechanisms could apply to the exact same use of those network facilities depending upon the kind of service being provided. At a time when the Commission is considering harmonizing these discrepancies through the *Intercarrier NPRM*, it should not seek to perpetuate that irrational system by applying it to an entirely new class of traffic.

other policy and operational issues identified herein, it should at the very least clarify that there is no need to utilize different facilities to carry that kind of traffic.

**D. The Commission Should Make Clear that TDM-TDM VoIP is Not Subject to Access Charges Pending Completion of the Commission's Comprehensive Intercarrier Compensation Proceeding**

Level 3 supports AT&T's contention that premature determinations regarding the applicability of interstate access charges to TDM-TDM VoIP risk causing competitive distortions among providers that use the same IP technology.<sup>27</sup> To avoid creation of these competitive distortions and ensure that providers make deployment decisions based on economics and customer demand rather than out of regulatory fear and uncertainty, Level 3 urges the Commission to grant AT&T's petition and conclude that all VoIP applications are subject to the ESP exemption regardless of whether the service is phone-to-phone, phone-to-computer or computer-to-computer. The Commission must then move promptly to adopt prospective regulations governing the appropriate compensation regime for the exchange of all traffic.

Level 3 has always advocated moving the intercarrier compensation regime to a forward-looking, cost-based model so that carriers were appropriately compensated for the functionality provided with a reasonable profit. Level 3 also recognizes the difficulty in determining the appropriate costs and therefore has also recommended that the Commission

explore the elimination of payments between carriers and adopt an interconnection pricing regime for all traffic based on bill and keep for origination and termination, whereby end-users pay for the benefit of making and receiving calls.

Level 3 believes that, implemented properly, cost-based interconnection or bill and keep in lieu of intercarrier compensation could solve many of the problems raised by AT&T in its Petition.

#### **IV. Conclusion**

By requesting the Commission to determine that interstate access charges are not applicable to any type of VoIP traffic, Level 3 is not asking the Commission to ignore the need for comprehensive compensation reform. Instead, Level 3 Communications, Inc. 3 urges the Commission to recognize that VoIP and circuit switching have different underlying cost structures. Permitting local exchange carriers to impose interstate access charges for termination of VoIP “calls” would be based on the higher-cost network’s costs and discourages service providers using the less efficient technology from transitioning to the more cost-effective technology. In addition, it insulates the higher-cost provider from the consequences of failing to make such a transition.

Instead of perpetuating this uneconomic compensation regime, Level 3 urges the Commission to grant AT&T’s petition and declare that TDM-TDM VoIP, as well as all other forms of VoIP applications that the Commission has previously found to be information or enhanced service, are not subject to interstate access charges pending completion of the

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<sup>27</sup> AT&T Petition at 27.

Commission's intercarrier compensation docket. The Commission should then make comprehensive intercarrier compensation reform one of its highest priorities.

Respectfully Submitted,

/s/ [filed electronically]

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December 18, 2002