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ATTORNEYS AT LAW

April 15, 2004

EX PARTE – Via Electronic Filing

Ms. Marlene Dortch
Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, DC 20554

Re: *Ex Parte* Communication
Level 3 Petition for Forbearance
WC Docket Nos. 03-266, 04-36, 03-211

Dear Ms. Dortch:

On Tuesday, April 13, and Wednesday April 14, Bill Hunt and Ron Vidal, all of Level 3, and I, on behalf of Level 3, met separately with: Commissioner Kathleen Abernathy and Matt Brill, Legal Advisor to Commissioner Abernathy; Tamara Preiss, Chief of the Pricing Division; Michelle Carey, Chief of the Competition Policy Division; Tom Navin, Deputy Chief of the Competition Policy Division; Jennifer McKee, Assistant Chief of the Pricing Policy Division; and Russell Hanser, Senior Attorney for the Competition Policy Division; Commissioner Kevin Martin and Dan Gonzalez, Legal Advisor to Commissioner Martin; Christopher Libertelli, Senior Legal Advisor to Chairman Powell, and Trey Hanbury of the Office of General Counsel; Commissioner Jonathan Adelstein, and Scott Bergmann, Legal Advisor to Commissioner Adelstein; and Jessica Rosenworcel, Legal Advisor to Commissioner Copps.

We discussed the Level 3 Petition for Forbearance and we also provided each of them with a copy of the attached press release and attached presentation and made the points set forth therein.

Ms. Marlene Dortch
April 15, 2004
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In accordance with the rules, this letter is being filed electronically in the above-captioned docket.

Sincerely,

/s/

John T. Nakahata

JTN/hlg


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March 29, 2004

Level 3 Announces Residential VoIP Phone Services

New Services to be Offered in More than 300 of the Largest U.S. Markets by End of 2004 through Cable Operators, ISPs and Enhanced Service Providers

New Services to be Made Available in Second Quarter

SANTA CLARA, Calif., March 29, 2004 – Level 3 Communications, Inc. (Nasdaq:LVL3) today announced that it is launching two new residential VoIP services to more than 300 of the largest markets in the U.S. by the end of 2004, with service availability beginning during the second quarter.

The new services, (3)VoIPSM Enhanced Local service and HomeToneSM, will enable cable operators, ISPs, enhanced service providers, IXCs and others to offer IP-based local and long-distance voice service to consumers via any broadband connection to the home. Level 3 formally unveiled the services at the Spring 2004 VON Conference & Expo.

"The U.S. consumer voice market, which is valued at over \$65 billion per year, is on the verge of fundamental change," said Sureel Choksi, president of Softswitch Services for Level 3. "The growth of residential broadband access, coupled with the increasing adoption of VoIP technology, is allowing a wide variety of companies to pursue the consumer voice market. We believe Level 3, with its extensive softswitch platform and local network infrastructure, is in a strong position to capitalize on this trend via these new complementary offerings."

"Our new residential VoIP offerings are designed to enable new entrants and established broadband and communications companies to cost-effectively accelerate their deployment of carrier-quality VoIP services to millions of U.S. households," said Choksi.

(3)VoIP Enhanced Local service essentially provides building blocks for "do-it-yourself" companies that want to manage their own residential telephone service. HomeTone is a complete turnkey solution for companies that prefer the ease and convenience that a "plug-and-play" service provides. HomeTone also gives providers of consumer VoIP services the ability to offer their own innovative and customized value-added features and applications to meet the specialized requirements of their end customers.

(3)VoIP Enhanced Local Service

(3) VoIP Enhanced Local Service, which Level 3 expects to begin offering during the second quarter of 2004, is ideally suited for cable operators, enhanced service providers, IXCs and others who are seeking to offer residential voice services but prefer to operate their own switching infrastructure.

(3)VoIP Enhanced Local service allows companies to develop voice services using Level 3 provided building blocks, including local phone numbers, interconnection with the traditional telephone network for local and long distance services, local number portability and E911 emergency services. The service provides these essential components while enabling the voice service provider to retain the flexibility to manage and control the features offered to the residential market.

"(3)VoIP Enhanced Local Service provides customers operating their own switching infrastructure the ability to deploy consumer VoIP services cost effectively with maximum control over the end-user experience and minimal involvement in complex interconnection issues," said Jack Waters, CTO and president of Voice Technologies for Level 3. "Customers are able to accelerate their time to market by leveraging Level 3's CLEC status in 48 states, local calling capability covering more than 93 percent of the U.S. population, and long-distance calling service worldwide."

"We're encouraged by the level of interest we're seeing from cable operators, IXCs and enhanced service providers," said Waters. "Level 3's IP backbone and softswitch platform allow us to offer superior cost and performance advantages with high quality of service."

Key Features of (3)VoIP Enhanced Local Service

- Local and long distance calling including access to the traditional telephone network
- Local phone numbers
- Operator assistance
- Directory listings and assistance
- E911 emergency services
- Local number portability

HomeTone

HomeTone, which Level 3 expects to begin offering during the second quarter of 2004, is a turnkey, hosted VoIP alternative to traditional residential local and long distance phone service. It offers the benefits and functionality of (3)VoIP Enhanced Local service, plus calling features such as voicemail, call waiting and three-way conferencing. In addition, HomeTone includes advanced calling features such as unified messaging, and a personal locator function that forwards the call until it reaches the designated party.

HomeTone service gives channel partners, such as ISPs, cable operators, ILECs and enhanced service providers the ability offer a cost-effective, high-quality local and long distance telephone service to consumers with minimal upfront costs and accelerated time to market. Channel partners can develop unique calling features and functionality with HomeTone to differentiate their voice offerings to consumers.

Key Features of HomeTone

All of the (3)VoIP Enhanced Local service features noted above, plus many others including:

- Voicemail
- Call waiting
- Three-way conferencing
- Caller ID
- Call forwarding
- Enhanced features including unified messaging and personal locator
- End-user, Web-based account management

In addition to residential VoIP services, Level 3 offers a full range of wholesale and business voice services. For more information about Level 3's portfolio of VoIP services, please stop by VON booth #615, or visit www.Level3.com.

About Level 3 Communications

Level 3 (Nasdaq:LVLT) is an international communications and information services company. The company operates one of the largest Internet backbones in the world, is one of the largest providers of wholesale dial-up service to ISPs in North America and is the primary provider of Internet connectivity for millions of broadband subscribers, through its cable and DSL partners. The company offers a wide range of communications services over its broadband fiber optic network including Internet Protocol (IP) services, broadband transport, colocation services, Genuity managed services, and patented Softswitch-based managed modem and voice services. Its Web address is www.Level3.com.

The company offers information services through its subsidiaries, Software Spectrum and (i)Structure. For additional information, visit their respective Web sites at www.softwarespectrum.com and www.i-structure.com.

The Level 3 logo is a registered service mark and (3)VoIP Enhanced and HomeTone are service marks of Level 3 Communications, Inc. in the United States and/or other countries.

Forward Looking Statement

Some of the statements made by Level 3 in this press release are forward-looking in nature. Actual results may differ materially from those projected in forward-looking statements. Level 3 believes that its primary risk factors include, but are not limited to: changes in the overall economy relating to, among other things, the September 11 attacks and subsequent events, the challenges of integration, substantial capital requirements; development of effective internal processes and systems; the ability to attract and retain high quality employees; technology; the number and size of competitors in its markets; law and regulatory policy; and the mix of products and services offered in the company's target markets. Additional information concerning these and other important factors can be found within Level 3's filings with the Securities and Exchange Commission. Statements in this release should be evaluated in light of these important factors.

Level 3 Petition for Forbearance IP-PSTN Communications

WC Dockets No. 03-266, 04-36, 03-211

April 13-14, 2004

Purpose and Scope

- Purpose: Reaffirm intercarrier compensation for IP-enabled services that have one end in IP.
- Scope:
 - Origination: PSTN to IP end user, with handoff in LATA (traffic to PIC not included)
 - Termination: IP end user to PSTN, with handoff in LATA.
 - Incidental PSTN-PSTN.
 - RLECs subject to 251(f)(1) rural exemption are excluded.
- Proposal: Reaffirm a reciprocal compensation model to IP-PSTN IP-enabled services.

Why Act Now?

- FCC cannot lawfully defer to *IP-Enabled Services NPRM* if Section 10 requirements are met (*AT&T v. FCC*, 236 F.3d 729 (D.C. Cir. 2001)).
- ILEC threats of retroactive applicability of access charges to IP-PSTN traffic create business, economic and regulatory uncertainty.
- Diverting investment to track geographic end-points of packets and to install duplicate interconnection facilities (co-carrier trunks and access trunks) is fundamentally unproductive and wasteful.

IP-PSTN – Not Just Long Distance, But Any Distance

- IP-enabled services are “any distance” capabilities that combine “local” and “long distance” communications, including when crossing between the PSTN and an IP network.
- Even if one could distinguish the geographic end points on the IP end, and accepted all ILEC arguments, access charges wouldn’t apply to a significant amount of IP-PSTN traffic.
- Arguments that VoIP is all “interexchange” are factually wrong.

Core Conundrum – IP is not Geographically Specific

- Phone numbers associated with IP addresses don't have a geographic location.
- Traditional means to “rate” calls and distinguish “access” from “non-access” don't work.
- FCC *Pulver.com* – “Global portability” renders it “impossible or impractical” to separate interstate from intrastate components.
- SBC “IP Platforms” filing – tracking packets is a “useless, inefficient technological capabilit[y] that would improve neither service nor efficiency.”
- Which intercarrier compensation regime applies?

Intercarrier Comp. for IP-PSTN – A Clash of Two Models

- Reciprocal Compensation –
 - LEC charges for termination; each carrier bears origination.
 - If no access, all traffic in a single trunk group.
- Access Model –
 - LEC charges for origination and termination.
 - Usually requires separate trunks from non-access.

Reciprocal Compensation – The Permanent Statutory Framework

- Section 251(b)(5) applies to all telecommunications traffic.
- Section 252 requires “just and reasonable” compensation with “mutual and reciprocal recovery by each carrier of costs associated with the transport and termination” of traffic originating on the other carrier’s network.
 - Termination is not “free.”
- Bill-and-keep is permitted (although Level 3’s Petition is not seeking “bill-and-keep”).

Access Charges – Transitional Only

- Preserved by 251(g).
- Intrastate – Not applicable at all if IP-enabled services are interstate.
- Interstate – Can be terminated by the FCC under 251(g).
- Cannot be applied to parties other than “interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign telecommunications services.” (69.5(b))

IP-PSTN – Choosing Access or Reciprocal Compensation

- Reciprocal Compensation –
 - Can evolve into a uniform mechanism (whether or not “bill-and-keep”); termination is not “free.”
 - Don’t need to create ways to jurisdictionalize traffic during transition to a uniform mechanism.
 - Efficient network design.
- Access Charges –
 - Can’t evolve into a uniform mechanism.
 - Requires creating ways to jurisdictionalize traffic for the interim transition, only to abandon them.
 - Inefficient network designs.

Forbearance & Discrimination

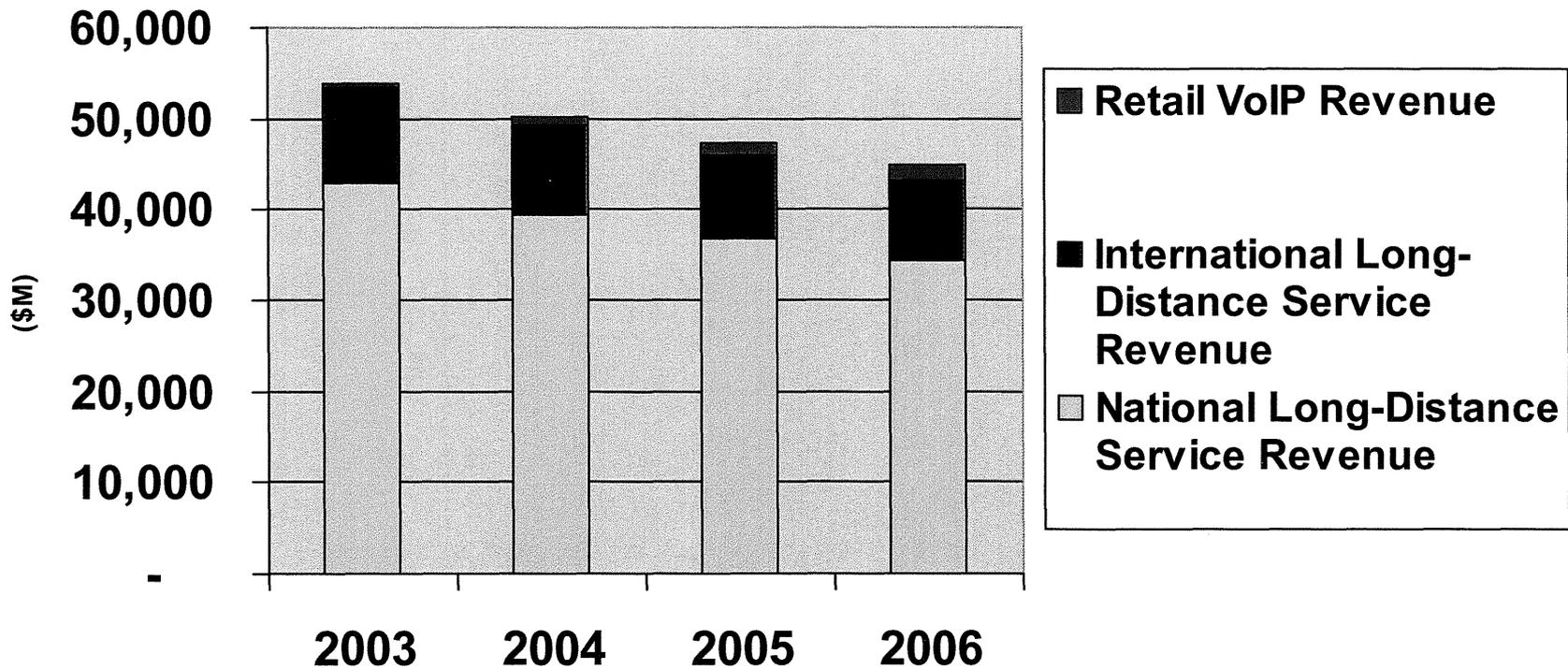
- Differences in treatment from circuit-switched traffic are reasonable due to lack of location information.
- Current intercarrier compensation regime is not “minute is a minute,” but varies based on end-point and carrier-type.
 - E.g Intra-MTA CMRS is under reciprocal compensation, but wireline LD traffic between the same geographic endpoints is under access.
 - Traffic to/from CMRS, CLEC, IXC, ISP-bound all “use” same loop, switch, and transport routes.

Forbearance & Universal Service

- Interstate access – Almost no CCL left for price cap LECs after *CALLS*; none for affected ROR LECs after *MAG*.
- Intrastate access – Non-rural LEC customers protected by *Non-Rural High Cost Remand Order*.
- Rural LECs largely exempt from the scope of Level 3's petition.
- No prospect of rapid traffic shifts – IP base will grow gradually.

LD Migration Circuit to IP (2005-2006)

Circuit Switched Wireline and VoIP Revenue



Source: Gartner Group

Level 3 Forbearance Petition – What Doesn't Need Deciding

- IP-Enabled Services – Information Service v. Telecommunications Service.
- Do access charges apply to IP-PSTN traffic under current rules (e.g. what is the scope of the ESP exemption, which net protocol conversions qualify as enhanced services)?
 - Level 3 Petition cuts the “Gordian Knot.”
- IP-Enabled Services – Interstate or Intrastate.