

October 28, 2008

EX PARTE

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: *Developing a Unified Intercarrier Compensation Regime,
CC Docket No. 01-92; IP Enabled Services, WC Docket
No. 04-36; Intercarrier Compensation for ISP-Bound
Traffic, CC Docket No. 99-68***

Dear Ms. Dortch:

This letter provides a further explanation of Level 3's proposal for rating according to calling and called party telephone numbers, which is important to address either as part of comprehensive reform, or as part of any standalone order addressing the United States Court of Appeals for the D.C. Circuit's remand of the *ISP Remand Order*.¹ We note that in a recent ex parte, the Arizona Corporation Commission also called on the Commission to address these issues associated with ISP-bound traffic.²

To simplify the intercarrier compensation system and eliminate disputes, a bright line rule is needed to determine the classification of telecommunications traffic. Due to technological advances which make it increasingly difficult to determine the geographic location of the

¹ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Intercarrier Compensation for ISP-Bound Traffic*, Order on Remand and Report and Order, 16 FCC Rcd. 9151 (2001) ("*ISP Remand Order*").

² Letter to Chairman Martin and Commissioners Capps, Adelstein, Tate and McDowell from Mike Gleason, William A Mundell, Jeff Hatch-Miller, Kristin Mayes, Gary Pierce, Commissioners, Arizona Corporation Commission, WC Docket Nos. 06-122 and 05-337 and CC Docket Nos. 01-92 and 96-45 at 3 (filed Oct 27, 2008).

physical end points of a call, the intercarrier compensation rules should be applied by utilizing the geographic locations of the rate center(s) originally associated with the calling and called party telephone numbers, without regard to the geographic location of the calling or called party's actual physical presence. For a call originating on the PSTN to an ISP or an interconnected VoIP customer, for example, the geographic location of the rate center as to which the ISP or VoIP customer's phone number was originally assigned would be used for applying intercarrier compensation rules, rather than attempting to determine the ISP or VoIP customer's physical location, which could be anywhere on the Internet. This rule would not change the applicable intercarrier compensation rule, except by specifying how to determine the geographic endpoints of a call. For example, a CMRS call would still be subject to reciprocal compensation if it is an intraMTA call; however, the geographic location of the called and calling parties for rating purposes would be established by the rate centers as to which the called and calling party numbers were originally assigned. Consistent with FCC decisions, for dial-around/calling card calls, the called party number is the number associated with the ultimate destination of the call, and not the number associated with the dial-around/calling card platform.

The Commission would still need to address how, prior to unifying terminating rates, intercarrier compensation rules should be applied when traffic originates from a subscriber to which no calling party telephone number is assigned.

Please contact me if you have any questions.

Sincerely,



John T. Nakahata

Counsel for Level 3 Communications, LLC

cc: Amy Bender
Scott Bergmann
Scott Deutchman
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Dana Shaffer
Donald Stockdale

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