ago, and if Level 3 has a gripe, it should file a 208 complaint and make a formal, cognizable allegation, as the Commission has directed.[4]

In following-up on Level 3's May 12 Filing, I learned that as of November 2007 – the same time Level 3 began disputing 100% of Hypercube's invoices – Level 3 had approved intrastate access tariffs for its "Toll Free Inter-Exchange Delivery Service" offering in at least the following 18 states: Arkansas, Delaware, Florida, Idaho, Illinois, Indiana, Kansas, Louisiana, Michigan, New Hampshire, New Jersey, New Mexico, North Dakota, Rhode Island, Texas, Utah, Wisconsin, and Wyoming.[5] The Level 3 White Paper containing this information – designed to secure approval of its competing intrastate tariff offering – similarly goes unmentioned in Level 3's May 12 Filing.

Level 3's decision to dispute 100% of the charges owed to Hypercube at the very same time it was rolling out – and defending – a competing product offering is an outrageous exercise of self-help that standing alone warrants a Commission investigation of Level 3's business practices. Indeed, in the *Seventh Report and Order*, the Commission noted that "IXCs appear routinely to be flouting their obligations under the tariff system,"[6] and Level 3 without question is flouting its obligations to Hypercube. Level 3's effort (at 3) to describe its vigilante, self-help practices as some type of "offset" is absurd. If Level 3 thinks it overpaid Hypercube, then Level 3 should file a complaint and not engage in self help.

At least equally stunning, the chart attached to Level 3's May 12 Filing (at Attachment 2) – the one that purportedly represents Hypercube as an "Inserted CLEC" – is *the exact same chart* contained in Level 3's White Paper, which Level 3 successfully employed to have the Rhode Island Commission approve adding Toll Free Inter-Exchange Delivery Service to Level 3's intrastate access tariff. White Paper at Appendix D. Moreover, Level 3 amended a variety of its

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4 *Access Charge Reform, Reform of Access Charges Imposed by Competitive Local Exchange Carriers*, Eighth Report and Order and Fifth Order on Reconsideration, 19 FCC Rcd 9108, ¶72 (2004).

5 Letter from Brian T. Fitzgerald, Counsel to Level 3, to Luly E. Massaro, Commission Clerk, State of Rhode Island and Providence Plantations Public Utilities Commission, Docket No. 3890, Exhibit A at 7 (filed Nov. 12, 2007) (attached hereto as Exhibit 2). Consistent with Level 3's terminology, Hypercube will refer to this Exhibit A as the "White Paper."

6 *Access Charge Reform, Reform of Access Charges Imposed by Competitive Local Exchange Carriers*, Seventh Report and Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd. 9923, ¶23 (2001) (the "*Seventh Report and Order*").

Arent Fox

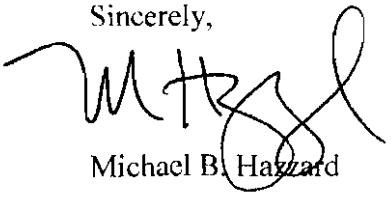
tariffs in mid and late 2008 to include the very same call flow diagram that Level 3 invokes to chastise Hypercube. A series of these are attached hereto at Exhibit 3.

Level 3's suggestion of some "industry-wide controversy" is belied by its actions and its May 12 Filing. Level 3's actions demonstrate that it has developed, deployed, and is maintaining a product offering that competes against Hypercube and presumably the others that Level 3 declines to mention in its petition. If Level 3's petition were anything but a sham, it would suggest that Level 3 has been knowingly engaged in developing, deploying, tariffing, and selling an illegal product offering for years. If some "industry-wide" problem existed, Level 3 would identify other carriers (or no carriers at all) in its petition, rather than mention Hypercube by name over *50 times*.

There is no doubt that Level 3's in-house attorneys participated in Level 3's effort to deploy and have approved intrastate tariff offerings of the very same type that Level 3 attempts to have the Commission declare unlawful. The same Level 3 lawyer that put his name on the May 12 Filing also put his name on the purportedly "proscribed" intrastate access tariffs (including the 2008 revisions) that Level 3 would have the Commission declare illegal.

Level 3's May 12 Filing is a sham. The Commission should recognize it as such. In addition, Level 3's lack of candor and unlawful self-help efforts warrant Commission prosecution of an immediate and complete investigation of Level 3's compliance with the proscription on self-help contained in the Commission's *Seventh Report and Order* and *Eighth Report and Order*.

Sincerely,



Michael B. Hazzard

Attachments

cc: Jennifer Schneider, Senior Legal Advisor to Acting Chairman Copps (electronic mail)
Scott Deutchman, Legal Advisor to Acting Chairman Copps (electronic mail)
Mark Stone, Legal Advisor to Commissioner Adelstein (electronic mail)
Nicholas Alexander, Legal Advisor to Commissioner McDowell (electronic mail)
Albert Lewis, Division Chief, Pricing Policy Division, WCB (electronic mail)
Deena Shetler, Division Deputy Chief, Pricing Policy Division, WCB (electronic mail)
Marlene H. Dortch, Secretary (by hand)
John Nakahata, Counsel to Level 3 (electronic mail)

EXHIBIT 1

Timeline

4/27/2001	FCC releases *Seventh Report and Order*, 16 FCC Rcd 9923 (2001)
	Sets benchmark for interstate switched access charges; notes 208 complaint process appropriate for challenging tariffed CLEC access rates; seeks comment on 8YY access charges
7/3/2002	FCC releases *Sprint PCS Declaratory Ruling*, 17 FCC Rcd 13192 (2002)
	Wireless carriers are entitled to charge for access to their networks by contract
5/18/2004	FCC releases *Eight Report and Order*, 19 FCC Rcd 9108 (2004)
	CLECs entitled to bill for the access service they provide; 8YY revenue sharing acknowledged and FCC finds no reason to take any action to limit or otherwise regulate it; states 208 is proper process for disputes
11/2005	Hypercube created; acquired KMC's Toll Free Origination business, among others
	Level 3 pays Hypercube's (f/k/a KMC's) Toll Free Origination bills without dispute
11/2007	Level 3 has competing Toll Free Origination, called "Toll Free Inter-Exchange Delivery Service" products in at least 26 states and DC
	Level 3 files a "White Paper" with the Rhode Island Public Service Commission describing its access products, including "Toll Free Inter-Exchange Delivery Service"
	Level 3 begins – for the first time – disputing 100% of Hypercube's access charge bills
2/2008	Hypercube attempts to engage Level 3 to resolve Level 3's 100% billing dispute (negotiations continue off and on through April 2009)
8/2008	Level 3 modifies its intrastate access tariff in Arkansas and Kansas to include a call flow diagram describing its "Toll Free Inter-Exchange Delivery Service"
10/2008	Level 3 modifies its intrastate access tariff in Wyoming to include a call flow diagram describing its "Toll Free Inter-Exchange Delivery Service"
4/20/2009	Hypercube sends formal demand letter to Level 3
5/8/2009	Hypercube files formal complaint with California PUC to enforce Hypercube's intrastate access tariff
5/12/2009	Level 3 files a pleading that it styles "petition for declaratory ruling"
	Level 3 uses same call flow diagram from its intrastate access tariff to describe Hypercube's service

EXHIBIT 2

DEWEY & LEBOEUF

Dewey & LeBoeuf LLP
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Suite 2020
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November 12, 2007

VIA E-MAIL AND FEDERAL EXPRESS

Luly E. Massaro, Commission Clerk
State of Rhode Island and Providence Plantations
Public Utilities Commission
89 Jefferson Boulevard
Warwick, Rhode Island 02888

Re: AT&T Communications of New England, Inc. – Petition to Investigate, Clarify and Modify Accordingly Level 3's Recent Access Tariff Revisions Docket No. 3890 – Response of Level 3 Communication, LLC

Dear Ms. Massaro:

On behalf of Level 3 Communications, LLC ("Level 3"), please find enclosed an original and ten copies of Level 3's Response in the above-referenced matter. Please time and date-stamp the extra copy of this filing and return it to me in the self-addressed, stamped envelope as proof of filing.

Thank you for your attention to this matter. If you have any questions regarding the filing, please contact me.

Respectfully submitted,

Brian T. FitzGerald
Bar No. 6568

BTF:gn (98365)

cc: Active Parties in Docket No. 3890 (via e-mail)
Cindy Wilson Frias, Esq. (via e-mail)

BEFORE THE
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

AT&T Communications of New England, Inc. – Petition to Investigate, Clarify and Modify Accordingly Level 3's Recent Access Tariff Revisions	Docket No. 3890

RESPONSE OF LEVEL 3 COMMUNICATIONS, LLC

Level 3 Communications, LLC ("Level 3") submits this response in opposition to the Petition of AT&T to Investigate, Clarify and Modify Accordingly Level 3's Recent Access Tariff Revisions ("Petition") filed on October 18, 2007. Level 3's tariff filings implemented originating access service to interexchange carriers ("IXCs"), which will allow users on Level 3's network to reach the 8XX numbers supported by those IXCs. The tariff revisions also allow Level 3 to offer Toll Free Interexchange Delivery service, which is a service to an IXC that allows users on other Local Exchange Companies ("LEC's") networks to reach the 8XX numbers supported by the IXC via the Level 3 network. The tariffs impose typical industry charges for handling such traffic.

AT&T Communications of New England, Inc. and its affiliates operating in Rhode Island (collectively "AT&T") have challenged Level 3's tariff by asserting that the descriptions of the service are vague, ambiguous or non-existent regarding how Level 3 will apply charges for its proposed new services. AT&T also alleges uncertainty regarding whether the new charges will be applied outside of the Toll Free Service context. Finally, AT&T alleges that the charge for pay telephone compensation is unjust and unreasonable. As set forth in detail below, AT&T's allegations of uncertainty and ambiguity are without merit and its concerns

about pay telephone compensation are unwarranted. Accordingly, AT&T's petition should be denied.

1. Level 3 filed revisions to its Tariff R.I. P.U.C. No. 2 on August 31, 2007 to become effective September 30, 2007. The revisions became effective by operation of law on September 30, 2007. On October 18, 2007, AT&T filed its Petition seeking investigation and modification of Level 3's effective tariff.

2. AT&T's objections center on its allegations of uncertainty. It is well understood that a tariff cannot address every possible ambiguity or uncertainty. All tariff language must be viewed in the context of industry usage and the actual practice of the utility. Level 3's Rhode Island tariff language is modeled on language utilized by other carriers offering similar services in various states. Despite AT&T's claims to the contrary, the language is not unduly uncertain or ambiguous. Nonetheless, in order to resolve up front any concerns that may exist, Level 3 is providing additional information with this response. Specifically, Level 3 has prepared a "white paper," incorporated herein by reference, which explains and clarifies the areas of uncertainty alleged by AT&T. *See* Exhibit A (the "White Paper"). Level 3 has also agreed to work with AT&T, Verizon and other parties to resolve their outstanding concerns and to reflect that resolution in the Level 3 tariff. Level 3 has filed in other states the revisions attached hereto as Exhibit B, and provides the proposed revisions for the Commission's consideration. Should the Commission find the proposed revisions necessary, Level 3 is prepared to file them for approval in Rhode Island.

3. As demonstrated by the White Paper, all of the tariffed services at issue are standard network functions that have long been tariffed and charged for by industry members that carry the applicable traffic. Level 3 is confident that AT&T as an ILEC, IXC and CLEC

with hundreds of years of combined experience in the rating and routing of calls, is familiar with and is currently charging for and handling similar types of traffic. AT&T alleges, nonetheless that it is "unclear whether (or how) traffic unrelated to the Toll Free Data Base product may be subject to charges under these three services."[1]

4. For the avoidance of any doubt, Level 3 states that the three filed rate elements (Originating Switched Access, Toll Free data Base Access Service; Toll Free Transit Traffic Service) relate to the exchange of toll free traffic. While Level 3 has not historically provided its own wholesale toll free service, it will now do so. When Level 3 begins carrying this type of traffic on its network, the switched access rate elements it has tariffed will become relevant. Level 3 has patterned its existing tariff upon the currently effective switched access services tariffs that its affiliated operating entity, Broadwing Communications, LLC, has in place in other states. Additionally, Level 3 conducted research of other providers' approved tariffs before initially filing its revisions. Level 3's newly tariffed services and rates are within the accepted industry range for similar services.

5. Contrary to AT&T's claims that the tariff lacks sufficient description of the services,[2] Level 3's Tariff No. 2 follows the Commission's required format and provides fairly detailed descriptions. Section 14.2.8 describes the services as follows:

> Toll Free Data Base Access Service is a service offering that utilizes originating trunk side Switched Access Service. The service provides for the forwarding of end user dialed Toll Free calls to a Company Service Switching Point which will initiate a query to the database to perform the Customer identification and delivery function. The call is forwarded to the appropriate Customer based on the dialed 800 number. In addition, the Customer has the option of selecting the 800 Option Features Package. Any dial around compensation relating to pay telephones will be billed in accordance to procedures and rates proscribed by

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1 Petition at 2.
2 Petition at 1.

> the Federal Communications Commission. The Company reserves the right to bill end users of its toll free service for any dial around compensation costs the company may incur.
>
> Toll Free Transit Traffic Service is an access service in which the Company transits toll free traffic originated by a third party who is not an End User or other user of the Company's local exchange or exchange access service through its wire center to a Customer. Toll Free Transit Traffic Service is comprised of various facilities, connections, features and functions. It provides for the use of common terminating, common switching and switched transport facilities of the Company but does not include local switching. Rates for Toll Free Transit Traffic Service are usage sensitive.

6. Notably, the description for Switched Access service itself has been and remains adequate. The Section 14 switched access service description has always contemplated the possibility that traffic can flow in both directions, but historically Level 3's Tariff No. 2 only contained rates for Terminating Access. To address two-way traffic, Level 3 has simply established fair, reasonable and non-discriminatory rates for Originating Access.

7. AT&T also alleges that originating access charges should not be imposed for the Toll Free Transit Traffic Service.[3] AT&T misreads the tariff language. With respect to the Toll Free Transit Traffic Service, Level 3 is not imposing Originating Access when it performs a transit function for routing of toll-free traffic. Instead it will apply the tariffed transit rates when third parties send traffic through Level 3 to reach a toll-free number that is also not Level 3's. The most likely situation where this traffic would be sent to Level 3 for transit service is if there is a need for overflow routing or emergency supplemental routing outside the otherwise established network routing used for toll-free traffic exchange between end-users. Beyond confirming that these charges will only be applied when the service is performed, it is not necessary to further clarify or address the distinction between transit service and local switching.

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[3] Petition at 3.

8. The Petition also raises the red-herring issue of how to allocate the traffic between the federal and state jurisdictions.[4] Like almost all mixed traffic, Level 3 will utilize the industry standard percentage interstate usage "PIU" factor from the IXC to determine the jurisdiction of the calls.

9. AT&T next asserts that there is uncertainty regarding application of the Toll Free Transit Service rates to Local Traffic.[5] No such uncertainty exists. As noted above, the three filed rate elements (Originating Switched Access, Toll Free data Base Access Service; Toll Free Transit Traffic Service) relate to the exchange of toll free traffic. Accordingly, they do not involve Local Traffic. To the extent AT&T is confused by the use of the term Transit Traffic in the service name, Level 3 would not oppose a modification of that name to Toll Free Inter-Exchange Delivery Service.[6]

10. Finally, the Petition questions the applicability of the Pay Telephone Compensation Rate. The Pay Telephone Compensation charge is appropriate when viewed in context. Again, Level 3 has already included a lengthy description of its Switched Access services in Section 14 of its tariff. When a toll-free number is dialed from a payphone and carried over Level 3's facilities to an IXC, the IXC or a successive carrier, is responsible for compensating the Payphone Service Provider ("PSP") $0.494 per call in accordance with the rules, procedures and rates prescribed by the Federal Communications Commission ("FCC"). If the IXC is not capable of reporting and/or remitting payphone compensation as prescribed by the FCC, it may request that Level 3 compensate the PSP on its behalf. In setting the rules for Payphone Compensation, the FCC specifically allowed for alternative compensation arrangements and acknowledged that such arrangements could involve the payment of a

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4 Petition at 3.
5 Petition at 4.
6 White Paper at 3.

surcharge to the carrier providing the tracking and remitting service.[7] Level 3's proposed $0.53 Pay Telephone Compensation rate includes an administrative surcharge which is consistent with the FCC rules and with other carriers' approved rates in Rhode Island, and will only be assessed on IXC's requesting that Level 3 compensate the PSP on its behalf.

WHEREFORE, Level 3 files this response and respectfully requests that the Petition be denied.

Respectfully submitted,

LEVEL 3 COMMUNICATIONS, LLC

By: _____
Brian T. FitzGerald
Bar No. 6568

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Dated: November 12, 2007

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[7] *See, Report and Order, In the Matter of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, FCC 03-235 (Adopted Sept. 30, 2003) at para. 48: "We further conclude that SBRs and PSPs may negotiate other mechanisms for payment other than those set forth in our rules. Specifically, we find that the SBR may enter into any other compensation arrangement voluntarily agreed to by the relevant parties. By adopting rules that require SBRs to develop tracking systems, we do not intend here to nullify current or future contractual arrangements if the parties wish to continue them. For example, a PSP and a SBR may agree by contract that the SBR may rely upon the interexchange carrier to track data and compensate the PSP directly in exchange for SBR payment for all calls that pass to the SBR's platform, completed or otherwise." *See also para 48, FN 136*: "MCI states that 49% of its SBR customers have agreed to pay a surcharge for all calls sent to their SBR platforms rather than invest in call tracking technologies or provide call completion data. These generally are the smallest SBR customers that do not find it economical to invest in payphone compensation tracking systems. Accordingly, our new rule permitting such arrangements, with the agreement of the PSP and the interexchange carrier, will permit SBRs the choice of investing in the required assets."

Exhibit A

Level 3's Recent Originating and Transit Tariff Filings

History

In the early 1980's antitrust concerns around AT&T's position in the marketplace caused Judge Harold Greene to issue what has become known as the Modified Final Judgment (MFJ). In this decision the marketplace was divided into Local Exchange Carriers (LECs), who provided local services, and an InterExchange Carrier (IXC) AT&T that provided Long Distance Services. The LECs were allowed to recover the cost of the use of their network by users making long distance calls from the IXC through a mechanism of publicly filed tariffs for what is known as Switched Access Services. Switched Access Services are the collection of Telecom Switches and transport that the LEC provides in the long distance call path and can be divided into three major areas:

- Transport
- Switching Functions
- Carrier Common Line

Transport includes the transmission facilities that connect carrier Points-of-Presence to the end offices that serve end users. This category includes both direct end routed transport and access tandem routed transport.

Switching Functions includes the rates for facility termination and switching functionality provided at end-offices and access tandems.

Carrier Common Line is the rate structure for recovering the costs incurred by local service providers in providing telephone lines (often referred to as the "local loop") used in part for making and receiving long distance calls.

LECs will file tariffs for services they provide to initiate long distance calls known as "Originating Access" and if they provide services to complete a long distance call as "Terminating Access". Calls that begin and end inside an individual states boundaries are know as Intrastate and those tariffs will be on file with that state's Public Utilities Commission as Intrastate Originating and Terminating Switched Access. For calls that begin and end in different states the tariff will be on file with the FCC as Interstate Originating and Terminating Switched Access. In addition to the functions provided on the Originating part of a call a LEC may also perform database functions to lookup which long distance carrier supports a particular Toll Free (8XX) number an end user may dial. These elements will be filed in the originating access section of the tariff.

The Telecom Act of 1996 allowed for competition in the Local Services arena by creating a new class of providers known as Competitive Local Exchange Carriers (CLEC). CLECs are governed in some of the same ways as LECs in that they have to file tariffs that govern the use of their networks by IXCs for long distance calls.

The Alliance for Telecommunications Industry Solutions (ATIS) provides guidelines for the exchange of bills and records between carriers through it's Multiple Exchange Carrier Access Billing (MECAB) Guidelines.

Level 3 is a CLEC who has historically been known as a provider of Internet Services and Long Haul Transport. Recent market changes are allowing Level 3 to expand it's portfolio of products into the traditional voice area. Until recently Level 3's Voice business was of a size where it was more practical for them to contract with other carriers to provide the originating functionality that its users needed to generate long distance calls. As that business has grown Level 3 is now in the position where it will provide services to IXCs as other LECs do and has filed and gained approval in many states for the services (Appendix A). To facilitate this change Level 3 has filed tariffs that will represent the Switched Access Services it will provide in two primary areas:

- Originating Access
- Toll Free Inter-Exchange Delivery Service

Both of these services will allow calls to pass to IXCs by the method of the IXCs choosing; Direct Connect or Tandem Connect

Direct Connect

It is our recommendation that establishing Direct Connects to the Level 3 network is done on an ICB basis as Level 3 has found that synergies can be gained on both sides when IXCs allow for the aggregation of traffic to central points. However should an IXC wish to directly connect to the Level 3 Switches as a tariff based service, the standard rates for Entrance Facilities and Direct Trunk Transport are provided.

Tandem Connect

Through the Tandem Connection architecture Level 3 will pass any Originating or Toll Free Inter-Exchange Delivery Service traffic to the Incumbent LEC's Access Tandem in the access tandem serving area where the traffic originates. No orders are required to Level 3 from the IXC as this is default configuration for traffic delivery.

Level 3's Originating Access Service

Level 3's Originating Access Service will provide a service to IXCs that will allow users on Level 3's network to reach the 8XX numbers supported by those IXCs. In addition to the three major elements of switched access, Local Transport, Local End Office Switching Functions, and Carrier Common Line, Level 3 will also provide the database functionality to lookup up the correct IXC for the call. Calls will be either completed indirectly to the IXC via the Incumbent LECs Access Tandem (Appendix B) or directly to the IXC via Entrance Facility that the IXC buys from Level 3 (Appendix C). This service is provided no

differently than LECs have been providing it for the last 20+ years. Specifically Level 3 will provide this service per the MECAB default guidelines for Multiple Bill, Multiple Tariff for calls delivered indirectly and Single Bill, Single Tariff for calls delivered directly. Where Level 3 performs the query to determine the CIC of the IXC supporting the 8XX call it will provide a billing record per MECAB guidelines to the Access Tandem Provider. The elements of Tandem Switching and Tandem Termination would not apply to a bill from Level 3 in an originating access calls as Level 3 does not perform these functions.

Level 3's Toll Free Inter-Exchange Delivery Service

Level 3's Toll Free Inter-Exchange Delivery Service will provide a service to IXCs that will allow users on other LEC's networks to reach to reach the 8XX numbers supported by those IXCs via the Level 3 Network. Level 3 had previously chosen the name "Transit" as that name was used by other carriers that are performing the same service in creating a means for calls to travel across their networks to reach IXCs. However, the name choice has caused confusion as "Transit" is more commonly associated with local calls between LECS and not calls to IXCs. Level 3 concedes that "Tandem Function Service" or "Intermediate Carrier Service" would have better classified the service that Level 3 provides as detailed by the FCC in FCC 04-110.

> *"Accordingly, we clarify that the competing incumbent LEC switching rate is the end office switching rate when a competitive LEC originates or terminates calls to end-users and the tandem switching rate when a competitive LEC passes calls between two other carriers. Competitive LECs also have, and always had, the ability to charge for common transport when they provide it, including when they subtend an incumbent LEC tandem switch. Competitive LECs that impose such charges should calculate the rate in a manner that reasonably approximates the competing incumbent LEC rate."*

Given the confusion for any Tariff that has not been approved Level 3 will change the name from "Toll Free Transit Traffic Service" to "Toll Free Inter-Exchange Delivery Service"

Following the FCC rule for calls that are indirectly connected by Level 3 to IXCs (Appendix D) or directly connected (Appendix E) Level 3 will only charge for the network elements that it provides in the call path. Specifically:

For Indirect Connections

- 8XX Database Service
- Tandem Switching
- Tandem Termination
- Switched Transport

For Direct Connections

- 8XX Database Service
- Tandem Switching
- Entrance Facility

Tandem Switching provides the switching necessary to connect the 3rd party LECs network to the correct transport facility and will apply to both direct and indirectly routed calls.

Tandem Termination provides for the trunk side arrangements that terminate the Switched Tandem Transport facilities on the Level 3 switch for calls that are indirectly routed.

Switched Transport provides transport between the Level 3 Switch and the Access Tandem when using indirect routing. Switched Transport is composed of common ("shared") transport from the access tandem to the Level 3 switch that subtends the access tandem. These elements are usage and distance sensitive. Switch Transport is assessed on a per mile/Minute of Use basis. The mileage band rate will be applied based on V & H coordinates of the Level 3 Serving Wire Center and the incumbent LEC Access Tandem.

Entrance Facilities provide a dedicated switched transport facility from carrier's POP to Level 3's Serving Wire Center (SWC) at a fixed monthly rate based on the facility provided

In a Toll Free Inter-Exchange Delivery Service call Level 3 will not charge Carrier Common Line, Local End Office Switching, or End Office Port charge as none of these functions or elements are used on the Level 3 network. Should the carrier that originates the traffic have a tariff that supports these functions or elements they may bill the IXC directly for them.

Payphone Compensation

There has been confusion on when and how Payphone Compensation charges will apply to 8XX calls delivered by Level 3. It is Level 3's intent to offer this as an optional service to IXC's where they would have the ability to contract specifically with Level 3 to have Level 3 act as the Completing IXC and compensate the Pay Phone Provider on the IXC's behalf. The rates listed in the Tariff apply to this optional service. In states where the tariff approval is still pending Level 3 will modify the language to make this more clear.

Frequently Asked Questions

1. Are the charges for Toll Free Inter-Exchange Delivery Service in Level 3's Proposed Tariff applicable to interexchange traffic, intraexchange traffic or both?

   Inter Exchange Traffic Only

2. If the charges will apply to interexchange traffic isn't Level 3's proposed Toll Free Inter-Exchange Delivery Service really originating jointly provided access?

   Yes, the service Level 3 will provide is commonly referred to as Jointly Provided Switched Access (JPSA)

3. How does Level 3 intend to insure that such jointly provided access is properly detailed and billed, both with respect to other carriers who jointly provide such access in conjunction with Level 3, and in terms of interexchange carriers who receive such jointly provided access services?

   Level 3 will provide a billing record to the originating LECs if they request one for calls that use Level 3's Toll Free Inter-Exchange Delivery Service to reach an IXC per the MECAB guidelines

4. Will the charges for Toll Free Inter-Exchange Delivery Service in Level 3's Proposed Tariff apply in addition to, or instead of originating switched access services?

   Level 3 will only charge for the services it provides in the Toll Free Inter-Exchange Delivery Service Call. Originating Access charges may be due to the 3rd party LEC who provides the end office functionality under that LEC's Originating Access Tariff

5. Under the Proposed Tariff, will Level 3 assess originating switched access charge on calls when Level 3 does not perform end office switching and carrier common line function?

   No

6. With respect to 8YY traffic, does Level 3 intend to charge the rates in its Proposed Tariff only for 8YY traffic that originates in the state, or does it intend to aggregate traffic that may originate in other jurisdictions, hand such traffic to interexchange carriers in the state with whom Level 3 is interconnected, and charge such interexchange carriers the rates set forth in Level 3's Proposed Tariff?

   Only traffic that originates in a particular tandem serving area will be sent to that particular tandem for traffic delivered indirectly by Level 3 through the IXC. Traffic delivered directly to an IXC will be aggregated as jointly agreed to by Level 3 and the IXC

7. How does Level 3 intend to determine the jurisdiction of 8XX calls for purposes of determining intercarrier compensation generally and application of its Proposed Tariff specifically?

   The IXC will be responsible for filing a Percent Interstate Usage (PIU) Factor to determine the jurisdiction of calls

8. Will the proposed Toll Free Inter-Exchange Delivery Service apply to calls that are placed by end users using wireless service or is the tariff limited to calls that originate on traditional wireline telephone service?

   The proposed tariff applies to calls that are delivered to IXCs. Those calls could originate through any number of technologies

9. Will this Proposed Tariff apply to calls that are placed by end user using VoIP service or is the tariff limited to calls that originate on traditional wireline telephone service?

The proposed tariff applies to calls that are delivered to IXCs. Those calls could originate through any number of technologies

10. Does Level 3 currently provide or is it planning to provide pay telephone service to end users?

    No

11. Is the "Pay Telephone Compensation" charge being applied to only 8XX calls (a/k/a 1-800 calls) that originate on a pay telephone or for any interexchange calls that originate on a pay telephone?

    The Pay Telephone Compensation charge would only apply to IXCs that specifically contract with Level 3 to act as the Completing IXC on the call and compensate to Pay Phone Providers on the IXC's behalf. Without this specific agreement between the Level 3 and the IXC, Level 3 will not apply any phone compensation charges

12. Does Level 3 have an interstate tariff on file (or to be filed) that corresponds to this tariff regarding Toll Free Data Base Service?

    Yes, Level 3 plans on making the changes to all State and Federal Tariffs

13. How will Level 3 jurisdictionalize and bill 8XX traffic, which is traditionally interstate? Which rate elements will apply?

    Level 3 will jurisdictionalize the call based upon the PIU factor provided by the IXC. Calls allocated as Interstate will be billed under Level 3's Federal Tariff, Intrastate under Level 3's State Tariff

14. Which rate elements will apply to which call types (e.g. VoIP, wireless, and wireline)?

    All calls delivered to IXCs regardless of the technology used to originate them will be charges based upon the elements of the Level 3 network used to in the call path, being either Originating Access or Toll Free Inter-Exchange Delivery Service.

15. Has Level 3 entered into Meet Point Billing agreements with all the carriers with whom it will exchange traffic to ensure the IXCs are accurately billed?

    Yes, Level 3 has Meet Point Billing (MPB) agreements wtih all incumbent providers that it is interconnected with for traffic that it delivers indirectly to IXCs. Level 3 will have MPB arrangements with any LEC using it's Toll Free Inter-Exchange Delivery Service

16. Is Level 3 prepared to provide all Access Usage Records to all carriers involved in meet point billing?

    Level 3 will follow the MECAB guidelines that call for the exchange of records between LECs in a MPB call flow

Appendix A

List of States that have approved Level 3's Originating and Toll Free Inter-Exchange Delivery Service Language

- Arkansas
- Delaware
- Florida
- Idaho
- Illinois
- Indiana
- Kansas
- Louisiana
- Michigan
- New Hampshire
- New Jersey
- New Mexico
- North Dakota
- Rhode Island
- Texas
- Utah
- Wisconsin
- Wyoming

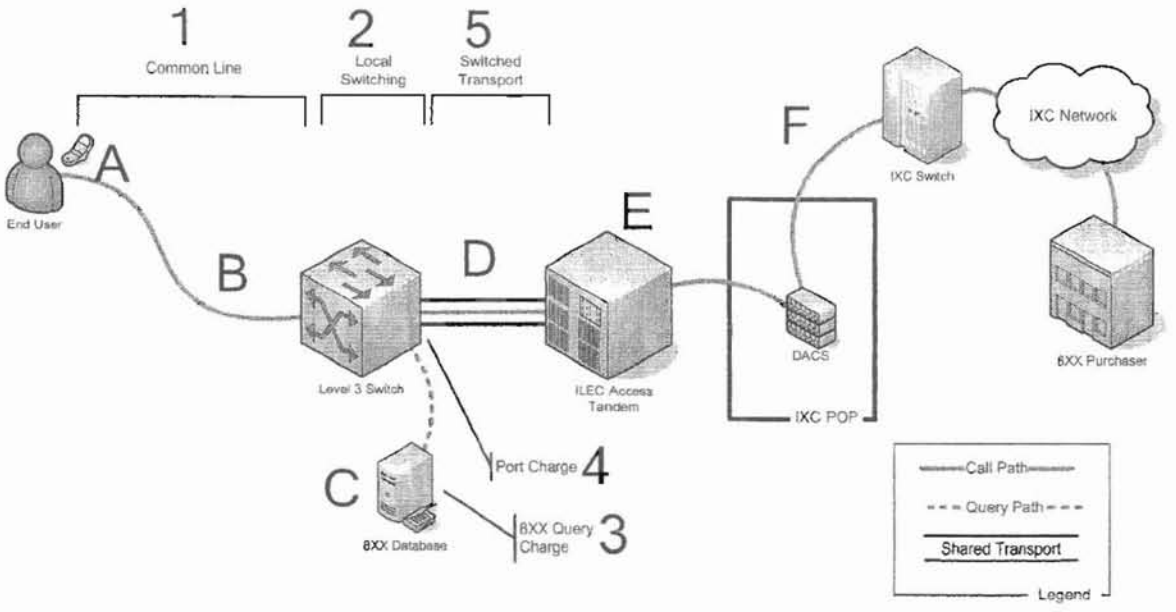
States without a Tariff requirement were Level 3 will offer the services

- District of Columbia
- Iowa
- Montana
- Nevada
- North Carolina
- Oregon
- South Dakota
- Vermont
- Washington

Appendix B

Originating Access Service

Calls completed indirectly to the IXC via the Incumbent LEC Access Tandem



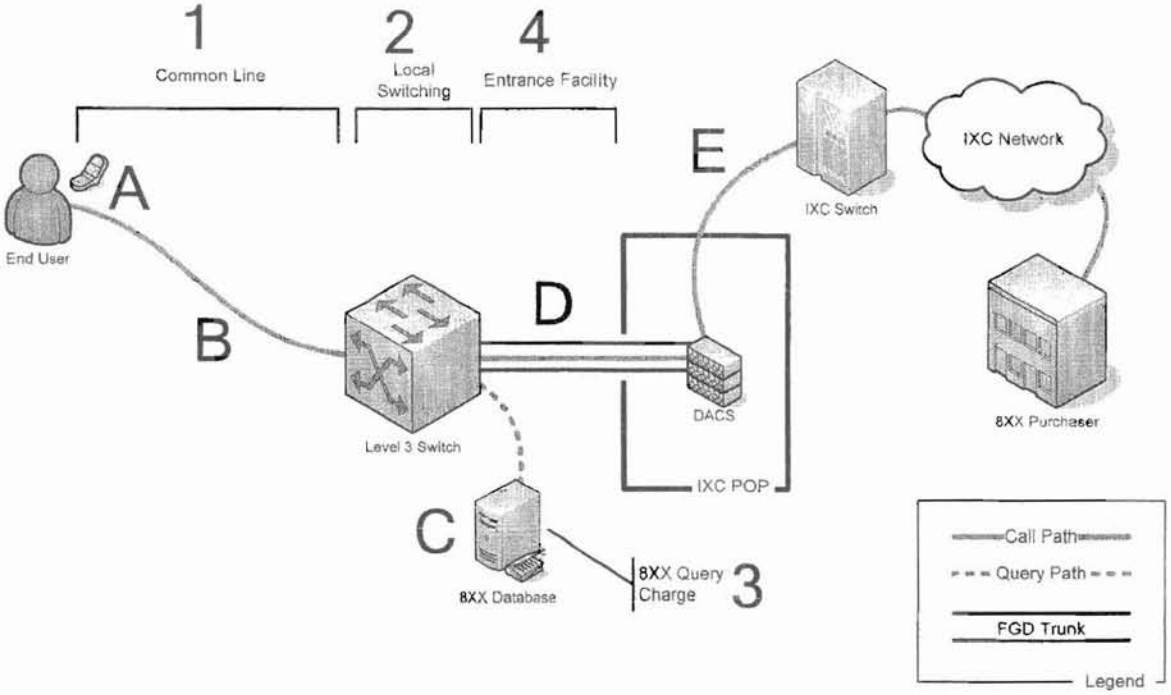
A. End User dials 8XX number
B. Call Routes to Level 3 Switch
C. Level 3 Switch looks up IXC that should receive the call
D. Call is routed across Shared Transport to Incumbent LEC's Access Tandem
E. ILEC routes call to IXC Feature Group D Trunk
F. Call is routed to IXC Switch which routes call across IXC network to customer that purchased the 8XX service

- Level 3 charges Carrier Common Line ($), Local Switching (%), 8XX Query Charge (&), Port Charge ('), and Switched Transport (( ) per its tariff
- The Tandem Carrier may bill the IXC for services that they perform on the call path

Appendix C

Originating Access Service

Calls completed directly to the IXC



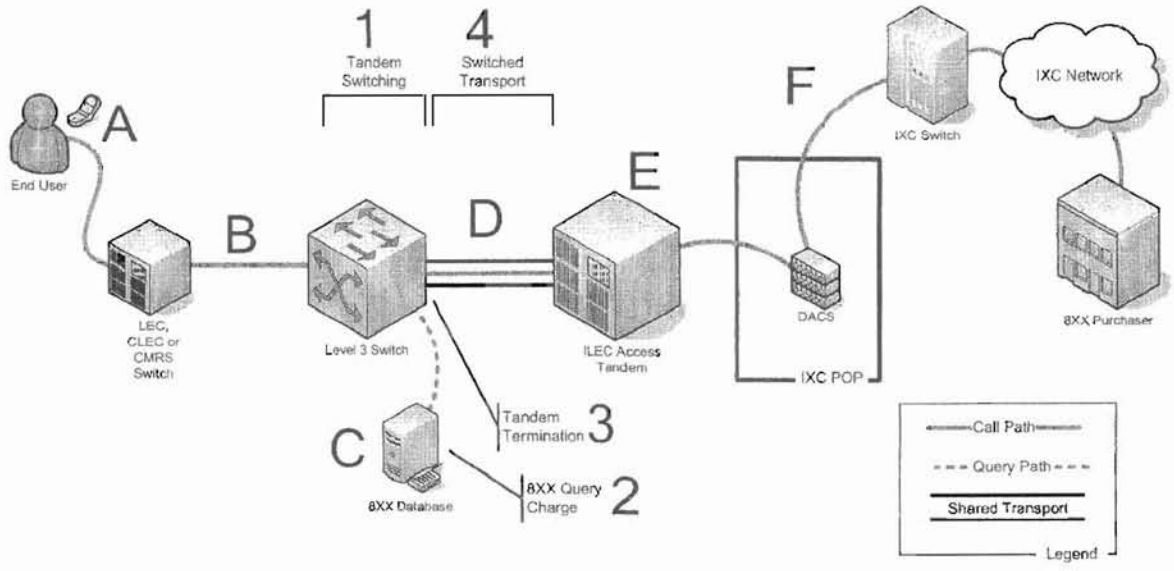
A. End User dials 8XX number
B. Call Routes to Level 3 End Office
C. Level 3 Switch looks up IXC that should receive the call
D. Call is routed across FGD Trunks to Digital Cross Connect System in IXC POP
E. Call is routed to IXC Switch which routes call across IXC network to customer that purchased the 8XX service

- Level 3 charges Carrier Common Line ($), Local Switching (%), 8XX Query Charge (&), and Entrance Facility (') per its tariff

Appendix D

Toll Free Inter-Exchange Delivery Service

Calls completed indirectly to the IXC via the Incumbent LECs Access Tandem



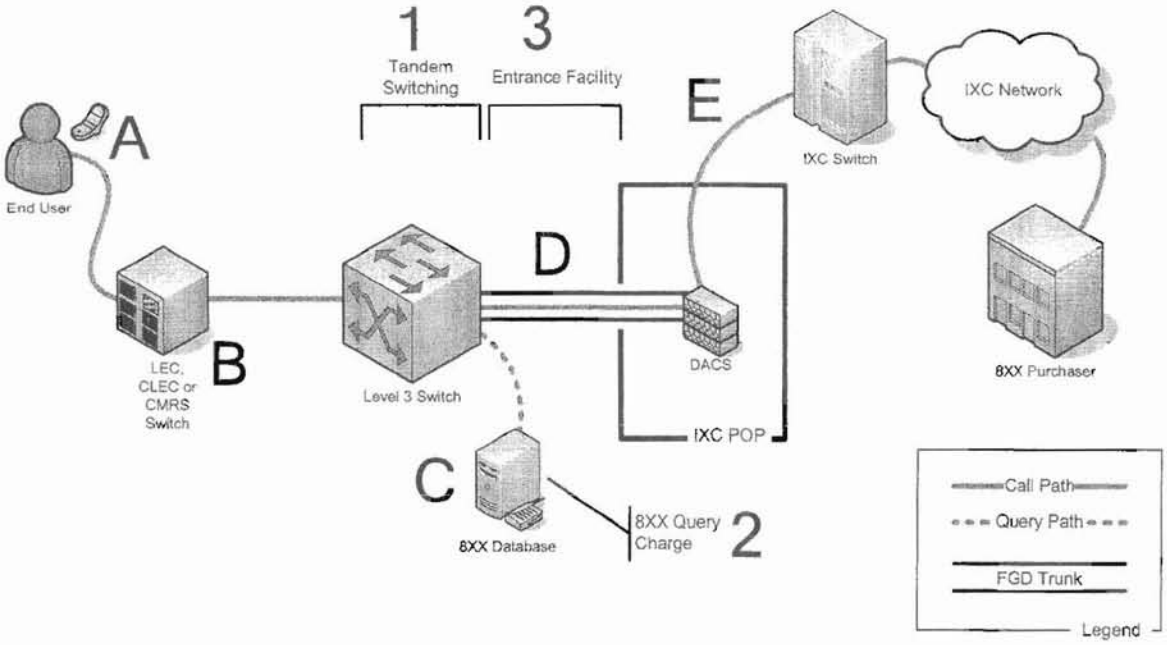
A. End User dials 8XX number
B. LEC, CLEC, or CRMS carrier has agreement with Level 3 to deliver 8XX Traffic to IXCs
C. Level 3 Switch looks up IXC that should receive the call
D. Call is routed across Shared Transport to Incumbent LEC's Access Tandem
E. Incumbent LEC routes call to IXC Feature Group D Trunk
F. Call is routed to IXC Switch which routes call across IXC network to customer that purchased the 8XX service

- Level 3 charges IXC Tandem Switching ($), 8XX Query Charge (%), Tandem Termination (&) and Switched Transport (') per its tariff
- The Originating and Incumbent Tandem Carriers may bill the IXC for services that they perform on the call path

Appendix E

Toll Free Inter-Exchange Delivery Service

Calls completed directly to the IXC



A. End User dials 8XX number
B. LEC, CLEC, or CRMS carrier has agreement with Level 3 to deliver 8XX Traffic to IXCs
C. Level 3 Switch looks up IXC that should receive the call
D. Call is routed across FGD Trunks to Digital Cross Connect System in IXC POP
E. Call is routed to IXC Switch which routes call across IXC network to customer that purchased the 8XX service

- Level 3 charges IXC Tandem Switching ($), 8XX Query Charge (%) and Entrance Facility(&) per its tariff
- The Originating Carrier may bill the IXC for services that they perform on the call path

Exhibit B