

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Bluegrass Telephone Company, Inc.
d/b/a Kentucky Telephone Company

FCC Tariff No. 3, Transmittal No. 3

WC Docket No. 10-227

**REPLY COMMENTS OF BLUEGRASS TELEPHONE COMPANY, INC.
D/B/A KENTUCKY TELEPHONE COMPANY**

Bluegrass Telephone Company, Inc. d/b/a Kentucky Telephone Company (“Kentucky Telephone”), by counsel, hereby submits these Reply Comments. Despite the Commission’s invitation, notably absent in this docket are comments filed by other carriers in support of the Applications for Review filed by Sprint Communications, LP (“Sprint”) and Qwest Communications Company, LLC (“Qwest”). Indeed, it appears that nearly every other Interexchange Carrier did not see fit to join Qwest and Sprint in their meritless requests to have the Commission overturn the decision of the Pricing Policy Division to allow Kentucky Telephone’s F.C.C. Tariff No. 3 to go into effect on 15 days’ notice and without suspension or investigation. The only logical conclusion that one can reach from the noticeable silence in this docket is that others have appropriately refrained from joining Qwest and Sprint’s crusade.¹

¹ Kentucky Telephone notes that Level 3, which chose not to petition for the suspension of Kentucky Telephone’s FCC Tariff No. 3, and which did not file affirmative comments in this docket, has now filed eleventh-hour “reply” comments supporting Sprint and Qwest’s petition, in an apparent effort to avoid having those comments scrutinized in any manner. *See* Reply Comments of Level 3 Communications, LLC, WC Docket 10-227 (Dec. 16, 2010). A cursory review of those Reply Comments establish that Level 3’s arguments provide nothing that should change the resolution of the pending Applications.

Kentucky Telephone will respond with a few brief points. First, Level 3 is the only other IXC that has joined Qwest and Sprint in engaging in unlawful self help withholding against Kentucky Telephone, so it is no surprise that it would also be the only carrier to offer token support for the Applications for Review. Indeed, it is the height of irony that Level 3 insists that there will be some “irreparable harm” that will flow to Level 3 if the Commission does not grant the Applications for Review. Level 3 does not even attempt to explain how it can be irreparably harmed if it is not paying Kentucky Telephone’s access bills.

Kentucky Telephone urges the Commission to act promptly to deny the Applications for Review filed by Qwest and Sprint. The Commission should (1) deny those portions of Qwest's application that are procedurally defective; (2) deny Sprint's application in its entirety for failure to comply with the rules applicable to Applications for Review; and (3) deny any remaining arguments, which were already considered and appropriately rejected by the Bureau. In no event should the Commission accept Qwest and Sprint's argument that it can violate the clear Congressional mandate of section 204(a)(3) by now retroactively declaring Kentucky Telephone's tariff void *ab initio*.

Prompt action to deny the Applications for Review is necessary to remove even the faintest hint of uncertainty that Kentucky Telephone's tariff is effective and that Qwest, Sprint, and Level 3 must cease their unlawful self help. Section 204(a)(3) is specifically designed to promote competition and remove doubt about the effectiveness of a LEC's tariff. The Commission's Public Notice seeking comments on the Applications for Review has deprived Kentucky Telephone of the certainty to which it is lawfully entitled. This is counter to both the intent of Congress and the public interest.

Second, Level 3 offers no explanation for how or why it is appropriate for the Commission to consider in response to an Application for Review the sufficiency of the Bureau's analysis in the public notice, without first raising that issue with the Division and giving it an opportunity to pass. Indeed, no party has yet offered any legal support for why the plain language of the Commission's rules should be ignored or otherwise explained how that issue is properly before the Commission. Indeed, no party has offered a cogent and legally-supported explanation as to what it believes was required under the Administrative Procedures Act.

Finally, Level 3's barbs questioning Kentucky Telephone's "business plan for legitimate services" is both irrelevant and misguided. First, Kentucky Telephone has been in business in well over 15 years and has been an innovative provider of advanced telecommunications services in its rural Kentucky community. If anything threatens the future success of Kentucky Telephone it is not its business plan or business savvy, but rather its failure to predict that three of the nation's largest telecommunications carriers would be permitted to engage unchecked in unlawful withholding campaigns, while at the same time continuing to send substantial volumes of traffic through its network. And, for the record, Kentucky Telephone hardly believes that Level 3 is in a position to offer judgment about the soundness of any carrier's business plan. *See, e.g.,* Moody's B3 Negative and Lower Corporate Rating List (Third Quarter 2010), available at: http://online.wsj.com/public/resources/documents/moodys_3Q2010.pdf (Level 3 is listed as among 195 corporations that "are on the B3 Negative and Lower list as a result of [] firm-specific factors, such as weak business conditions. . . .").

For the foregoing reasons, and as fully articulated in Kentucky Telephone's Opposition to the Applications for Review, the Commission should deny the Applications for Review in their entirety.

Dated: December 16, 2010

Respectfully submitted,

By: 

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CERTIFICATE OF SERVICE

I, G. David Carter, hereby certify that on this 16th day of December, 2010, a true and correct copy of the foregoing **BLUEGRASS TELEPHONE COMPANY, INC.'S REPLY COMMENTS** was served via ECFS, Federal Express*, or electronic mail** on the following persons:

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