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

In the Matter of Petition of Verizon and Verizon Wireless for Declaratory Ruling to Assess NPAC Database Intra-Provider Transaction Costs on the Requesting Provider	WC Docket 11-95

COMMENTS OF LEVEL 3 COMMUNICATIONS, LLC

Level 3 Communications, LLC ("Level 3") submits these comments in response to the Federal Communications Commission's ("Commission") Public Notice ("*PN*") seeking comment on a petition for declaratory ruling ("Petition") requesting that the costs of certain tasks that use the Number Portability Administration Center ("NPAC") database but are unrelated to number portability or pooling be borne directly by the cost-causing providers, rather than shared by all telecommunications carriers.[1] While Level 3 agrees that NPAC database costs should be controlled, it opposes Verizon's Petition as it relates to certain types of transactions, as discussed below.

Pursuant to the current Commission approved structure governing the provision of number portability, a third party vendor is, pursuant to contract ("NPAC Contract"), charged with administering the Number Portability Administration Center/Service Management System.[2] As most recently noted in a May 16, 2011 Commission Order ("*May 2011 Order*"), the NPAC

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1 *See Pleading Cycle Established for Comments on Verizon and Verizon Wireless Petition for Declaratory Ruling*, Public Notice, WC Docket No. 11-95 (rel. June 1, 2011).

2 *Telephone Number Portability*, Second Report and Order, 12 FCC Rcd 1228 at ¶114 (1997).

Contract, currently awarded to Neustar, expires in 2015.[3] As a result of the upcoming NPAC Contract expiration, in the *May 2011 Order*, the Wireline Competition Bureau ("Bureau") adopted procedures that the North American Numbering Council ("NANC") and the North American Portability Management LLC ("NAPM") must follow in the local number portability administrator ("LNPA") selection process, in addition to outlining the Bureau's role in overseeing the LNPA selection process.[4] In light of these recent actions, the Commission should refrain from addressing Verizon's Petition, and making any changes to the federal number portability and pooling cost recovery mechanism before the new NPAC Contract is awarded. It is through the LNPA selection process that the NANC will gather the appropriate industry participants, and can conduct a full discourse concerning the definition of cost-causing transactions. This will allow the NANC to ensure the NPAC Contract, as a whole, reflects changes in industry practices and technology, which have made certain provisions of the current contract obsolete.

DISCUSSION

As outlined above, the current NPAC Contract, which is due to expire in 2015, will be awarded to the next LNPA under the guidance of the NANC, which is responsible for both selecting the LNPA, and ensuring that the terms of the NPAC Contract are consistent with

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[3] *Petition of Telcordia Technologies Inc. to Reform or Strike Amendment 70, to Institute Competitive Bidding For Number Portability Administration and to End the NAPM LLC's Interim Role in Number Portability Administration Contract*, Order, WC Docket No. 09-109, CC Docket No. 95-116 at ¶ 4 (rel. May 16, 2011).

[4] *May 2011 Order* at ¶ 5.

Commission rules,[5] including those rules ensuring that the "costs of establishing number portability be borne by all telecommunications carriers on a competitively neutral basis."[6] Rather than addressing Verizon's Petition independently, the Commission should charge the NANC with addressing the issues raised in the Petition during the process it has established for selecting a new LNPA, to ensure that the new NPAC contract is consistent with Commission rules and policies.

Charging the NANC with reviewing the current federal cost recovery structure at the same time the LNPA is selected, will ensure a more holistic review of the current NPAC contract terms. Likely, several revisions to a number of the provisions of the current NPAC contract are necessary, to ensure that all terms reflect changes in technology and industry practices that may have rendered the current contract out of date. A more comprehensive review of the entire NPAC Contract through the Commission's recently established process,[7] including the definitions that establish the current federal cost recovery structure, is also a more efficient use of the Commission's, the NANC's and industry's time.

Another reason the Commission should charge the NANC with addressing Verizon's Petition within the context of selection of the LNPA, is because carriers such a Level 3 have come to rely on the fact that LNP Type 1intra-service provider ports are included within the shared NPAC database costs, and have implemented processes for conducting customer number migrations as a result of that reliance. To declare that intra-service provider ports be excluded

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5 *See Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd. 8352 at ¶ 93 (1996) ("*First Report and Order*").

6 *Id*. at ¶ 126.

7 *See generally May 2011 Order*.

without allowing carriers sufficient time to adjust their processes, or without taking into consideration changes in technology that have made alternative number migration methods less efficient and effective, could affect the ability of some carriers to "compete for a customer."[8] In order to ensure these concerns are taken into consideration, the Commission should allow the NANC to fully examine such changes though the LNPA selection process.

Today, many intra-service provider ports are performed to migrate customers from a purchased carrier's switch, to the purchasing carrier's switch, as a result of a merger or other similar transaction. Carriers have relied upon the inclusion of intra-service provider ports within the current definition of "shared industry costs,"[9] when developing their processes for migrating customers between their switches. As result, the type of migrations described above should not be redefined as "elective," as suggested by Verizon.[10] Furthermore, as more fully explained below, the alternative Local Exchange Routing Guide ("LERG") method for migrating customers, as described in Verizon's Petition,[11] is optimal for time-division multiplexing ("TDM") networks, not primarily session initiation protocol ("SIP") based networks such as Level 3's.

Verizon asserts that intra-service provider migrations can easily be completed through the LERG.[12] However, because migrations conducted through the LERG must be completed at the

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8 *Telephone Number Portability Third Report and Order*, 13 FCC Rcd 11701 at ¶ 56 (1998).

9 *First Report and Order* at ¶ 208.

10 *See* Petition at 6.

11 *See id*. at 8.

12 *See id*.

code level, the use of the LERG for migrations from one switch to another places customers at risk for service disruptions. A given NXX code is typically comprised of many different customer telephone numbers. Migrating at the code level forces these customers, who may have varying timing and technical requirements, to be ready on the effective date or risk that their numbers will be removed from service. Intra-provider porting allows carriers to mitigate this risk by allowing subsets of numbers to be migrated, thereby enabling the service provider to conform to customer requirements.

In addition, use of the LERG for migrations is much more suited to the TDM environment than it is the SIP environment. In the TDM environment, which has long established signaling protocols and standards, it is much easier to migrate multiple customers that already conform to these standards, to new serving switches. In the SIP environment, where implementation of standards is less mature, carriers must complete interoperability testing of customer equipment and the new serving switch, to ensure compatibility. Intra-service provider porting allows carriers to migrate a subset of customers within a code without issuing a date certain migration mandate, which may introduce a service disruption for several customers within that code.

Finally, intra-service provider porting allows carriers to preserve industry numbering resources. For example, when merging two separate networks with overlapping coverage areas, intra-provider porting allows service providers to balance their number inventory across both networks, which are operating under the same OCN, rather than obtaining a thousands-block for each network. The service provider can split a single thousands-block between the two networks via intra-service provider porting, improving the overall block utilization by moving numbers where they are needed most.

To find that intra-service provider ports performed to complete migrations resulting from a merger transaction are "elective," would severely impair competition. Mergers and acquisitions within the competitive telecommunications industry are necessary, as competitive local exchange carriers ("CLECs") must consolidate in order to compete with large, entrenched incumbents such as Verizon. Similar to several other CLECs, Level 3 has been a party to acquisitions and other transactions. In order to achieve the economic and network synergies of such transactions, integration of the disparate networks of the entities acquired by, or merged with Level 3, must occur. Level 3 has relied upon the fact that intra-service provider ports are currently characterized by NPAC as shared industry costs, when completing migrations related to such transactions. If Level 3 and other similarly situated carriers must implement a new process for customer migrations, not only would transaction synergies be lost, but carriers would incur substantial additional costs that may ultimately deter future transactions, and impair competition. Therefore the Commission should ensure that the changes suggested by Verizon are more comprehensively examined within the context of the upcoming LNPA selection process.

CONCLUSION

For the reasons described above, Level 3 urges the Commission to address Verizon's Petition within the context of the LNPA selection process. The recent procedures established in the Commission's *LNPA Selection Order*, which will be conducted by the NANC, is the best venue for determining whether changes to the current federal cost recovery structure should be made, in consideration of changes in technology and industry practices.

Respectfully submitted,

_/s/__*Erin Boone*_______________

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July 15, 2011