

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

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Docket No. 07-135
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Developing an Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Lifeline and Link-Up)	WC Docket No. 03-109
)	
Universal Service Reform – Mobility Fund)	WT Docket No. 10-208

**PETITION FOR LIMITED WAIVER OF
47 C.F.R. § 64.1601(a)**

Level 3 Communications, LLC (“Level 3”) hereby requests a limited waiver of the new call signaling rules adopted by the Commission.¹ A limited waiver of the rules is necessary because its technically infeasible for Level 3 to adhere to the new rules in certain circumstances, as described below. The Commission, in the *CAF Order*, directed parties “seeking limited exceptions or relief in connection with the call signaling rules” to “avail themselves of established waiver procedures at the Commission.”² Specifically, Level 3 seeks the following

¹ See 47 C.F.R. § 64.1601(a)(1)-(2).

² *Connect America Fund; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Lifeline and Link-Up; Developing an Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; A National Broadband Plan for Our Future; Universal Service Reform – Mobility Fund,*

waivers or clarifications of the phantom traffic rules: (1) A waiver of the requirement to transmit CN, when different than CPN, for SIP-terminated calls; (2) clarification or waiver that a charge number can include a pseudo-North American Numbering Plan number, a customer's private numbering plan number or a toll-free number as long as it is associated with the enterprise customer; and (3) a waiver of the requirement to populate the ANI field with the calling party number or charge number for call terminated to a LEC over an MF facility, which cannot be done with current industry standards and equipment.

Under the Commission's general waiver standards, the Commission will grant a waiver "for good cause shown."³ Good cause, in turn, may be found and a waiver granted "where particular facts would make strict compliance inconsistent with the public interest."⁴ To make this public interest determination, the waiver cannot undermine the purposes of the rule, and there must be a stronger public interest benefit in granting the waiver than in applying the rule.⁵

Level 3 fully supports the FCC's adoption of its "phantom traffic" rules and the prohibition in paragraph 714 of the *CAF Order* that the Charge Number field "may not contain or be populated with a number associated with an intermediate switch, platform, or gateway, or

Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd. 17663, 17898-99, ¶ 723 (2011) ("*CAF Order*").

³ 47 C.F.R. § 1.3. See also *ICO Global Communications (Holdings) Limited v. FCC*, 428 F.3d 264 (D.C. Cir. 2005) ("*ICO Global Communications*"); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990) ("*Northeast Cellular*"); *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969) ("*WAIT Radio*").

⁴ *Northeast Cellular* at 1166; see also *ICO Global Communications* at 269 (quoting *Northeast Cellular*); *WAIT Radio* at 1157-59.

⁵ See, e.g., *WAIT Radio* at 1157 (stating that even though the overall objectives of a general rule have been adjudged to be in the public interest, it is possible that application of the rule to a specific case may not serve the public interest if an applicant's proposal does not undermine the public interest policy served by the rule); *Northeast Cellular* at 1166 (stating that in granting a waiver, an agency must explain why deviation from the general rule better serves the public interest than would strict adherence to the rule).

other number that designates anything other than a calling party's charge number.”⁶ Level 3 itself has been victimized by carriers that insert a Charge Number other than the calling party's number in order to try to alter the intercarrier compensation that would apply. The Commission rightly is stamping out such deceptive activity.

I. CN CANNOT BE PASSED ON SIP-TERMINATED CALLS.

As an intermediate carrier, Level 3 is required by revised rule 64.1601(a)(2)⁷ to “pass unaltered to subsequent providers in the call path signaling information identifying the telephone number, or billing number, if different, of the calling party that is received with the call.”

However, although Level 3 may receive both a calling party number and a charge number for a call that will be SIP-terminated, because SIP has no Internet Engineering Task Force standard concept of a Charge Number, Level 3 cannot transmit the CN to the subsequent carrier. Level 3 requests a waiver of Section 64.1601(a)(2) to the extent that section would otherwise require Level 3 to deliver a charge number that it has no way to deliver.

Although there are some proprietary/prototype headers into which the Charge Number could potentially be placed, these are not standardized across the industry. The SIP header is used to identify the Calling Party Number, not the Charge Number. This is only a problem with respect to TDM-originated traffic that terminates via a SIP interconnection.

Accordingly, the Commission should waive 47 C.F.R. § 64.1601(a) to the extent it would require Level 3 to pass a Charge Number on a SIP-terminated call.

⁶ *CAF Order*, ¶ 714.

⁷ 47 C.F.R. § 64.1601(a)(2).

II. A CLARIFICATION OR LIMITED WAIVER IS NECESSARY WITH RESPECT TO CHARGE NUMBERS FOR CERTAIN ENTERPRISE CUSTOMER-ORIGINATED TRAFFIC.

In certain limited circumstances, Level 3 cannot comply with the requirement to transmit the calling party number in the SS7 ISUP (ISDN User Part) CPN field and, where different, the charge number in the SS7 ISUP CN field to the extent that the charge number is defined solely as a “telephone number.”⁸ Because Level 3 operates as both an interexchange carrier (“IXC”) as well as a local exchange carrier (“LEC”), in some cases its interexchange carrier customers will have no originating telephone number, such as when there is a dedicated connection from a call center to Level 3’s interexchange switch. In other cases, its enterprise customers may have multiple telephone numbers routed through a single PBX – which may be connected to an enterprise customer’s internal private wide area network. In these cases, Level 3 will populate the CN field with a number that Level 3’s customer specifies. Where this is only one of many telephone numbers from the same single location, there is no problem under the rule and a waiver is unnecessary. Frequently this will be the case because the customer will specify a number on which it can receive return calls, and thus that number is likely to be in the same rate center as any numbers associated with the calling party’s station.

In other cases, however, this inserted charge number may be a pseudo-North American Numbering Plan number, a private numbering plan number or a toll-free number. These numbers are *never* “numbers associated with an intermediate switch, platform or gateway,” which is what the Commission sought to prohibit with its rules governing charge numbers.⁹ The purpose of these numbers is to allow traffic from these numbers to be properly jurisdictionalized and billed.

⁸ CAF Order ¶ 714.

⁹ CAF Order ¶ 714.

Level 3 believes that the best reading of rules 64.1601(a)(1) and 64.1600(g)(definition of “charge number”) is that all of these qualify as “charge numbers” because they are used for billing or routing purposes.¹⁰ Level 3 seeks such a clarification here. However, to the extent that the Commission decides that these numbers do not fit the four corners of the definition of “charge numbers,” Level 3 seeks a waiver to continue to permit their use.

III. LIKE OTHER CARRIERS, LEVEL 3 CANNOT PASS CPN OR CN IN THE ANI FIELD FOR CALLS TERMINATING OVER MF SIGNALING.

Like all other carriers that have filed similar waiver petitions,¹¹ Level 3 cannot transmit either the CPN or CN in the ANI field to a LEC that receives terminating traffic over an MF facility. Under the MF Feature Group D standard, MF Feature Group D signaling allows for either two-stage or single-stage dialing, with the dialing sequence used determined by the direction of the call (*i.e.*, from the LEC to an IXC or from an IXC to a LEC). For terminating traffic from the IXC to the LEC, single-stage dialing is used. The single stage MF dialing sequence is “KP + CalledPartyNumber + ST.” As is apparent, this does not contain either the CPN or the CN.

As with other carriers, it is not possible for Level 3 to modify equipment at this point to add CPN and CN to the MF single stage dialing sequence used for traffic terminating from the IXC to a LEC over an MF facility. Moreover, as Verizon points out, Level 3 cannot switch to

¹⁰ 47 C.F.R. §§ 64.1600(g); *see also* 47 C.F.R. §§ 64.1601(a)(1).

¹¹ *See* AT&T Inc. Petition for Limited Waiver at 5-6, WC Docket Nos. 10-90 et al. (filed Dec. 29, 2011); CenturyLink, Inc. Petition for Limited Waiver at 6-7, WC Docket Nos. 10-90 et al. (filed Jan. 23, 2012); Verizon Petition for Limited Waiver at 6-7, WC Docket Nos. 10-90 et al. (filed Feb. 10, 2012) (“Verizon Waiver”); General Communication Inc. Petition for Limited Waiver at 5-6, WC Docket Nos. 10-90 et al. (filed Feb. 27, 2012); Hawaiian Telcom, Inc. Petition for Limited Waiver at 4-5, WC Docket Nos. 10-90 et al. (filed Mar. 1, 2012); Alaska Communications Systems Group Waiver at 5, WC Docket Nos. 10-90 et al. (filed Mar. 16, 2012); FairPoint Waiver at 5-6, WC Docket Nos. 10-90 et al. (filed Mar. 28, 2012).

SS7 signaling unless the LEC agrees to do so.¹² Accordingly, the Commission should grant Level 3 a waiver of the requirement to populate the ANI field on MF terminating traffic with the CPN or CN.

IV. CONCLUSION

Accordingly, for the reasons described above, the Commission should grant Level 3's request for a waiver of its phantom traffic rules for the issues described above, and enable it to seek further waivers as appropriate, should Level 3 discover that there are additional situations in which it is technically infeasible for it to comply with the Commission's rules.

Respectfully submitted,



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¹² See Verizon Waiver at 7.