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November 5, 2013

**Ex Parte**

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

Re: *Numbering Policies for Modern Communications*, WC Docket No. 13-97; *IP-Enabled Services*, WC Docket No. 04-36; *Telephone Number Requirements for IP-Enabled Services Providers*, WC Docket No. 07-243; *Telephone Number Portability*, CC Docket No. 95-116; *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92; *Connect America Fund*, WC Docket No. 10-90; *Numbering Resource Optimization*, CC Docket No. 99-200

Dear Ms. Dortch:

On November 1, 2013, Mack Greene and I, on behalf of Level 3 Communications, LLC (Level 3 LEC), and its affiliate Level 3 Enhanced Services, LLC (Level 3 ES, and collectively, Level 3), met with Bill Dever, Melissa Kinkel, Ann Stevens, John Visclosky, and Sanford Williams of the Wireline Competition Bureau to discuss Level 3's experience attempting to test routing for voice communications traffic in the Denver rate center in connection with the numbering trial established by the Commission in the *VoIP Numbering Trial Order*.<sup>1</sup> During the conversation, the Level 3 representatives made the following points.

Level 3 ES, like a number of non-carrier customers of Level 3 LEC, has historically used telephone numbers that are registered in the LERG under the Level 3 LEC Operating Company Number (OCN) and that are homed to a Level 3 LEC switch. As part of the Commission's numbering trial, Level 3 ES obtained its own OCN, and then obtained new A-blocks of telephone numbers in the Boston, Charlotte, Dallas, Denver, Los Angeles, and Rochester rate centers. As explained in the trial proposal, Level 3 first sought direct IP interconnection to support its trial traffic. In general, however, those efforts were unsuccessful. Accordingly, Level 3 ES elected to use Level 3 LEC to route its trial traffic over existing Level 3 LEC-incumbent interconnection facilities—just as it does its non-trial traffic, and just like any

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<sup>1</sup> *Numbering Policies for Modern Communications*, et al., Notice of Proposed Rulemaking, Order, and Notice of Inquiry, 28 FCC Rcd 5842 (2013) (*VoIP Numbering Trial Order*).

unaffiliated non-carrier using Level 3 LEC as a CLEC partner would. While Level 3 was disappointed not to obtain direct IP interconnection in these areas, that approach would at least be as efficient as the existing method for exchanging Level 3 ES traffic with the incumbent in each area.

At present, Level 3 has successfully tested call routing for its new A-blocks in the Boston, Charlotte, Dallas, Los Angeles, and Rochester rate centers. Following successful testing, Level 3 has marked those A-blocks as “active” and has returned the unused telephone numbers for each A-block, and those unused numbers are now available to other carriers.

Testing in the Denver rate center has not been successful. CenturyLink, the incumbent in that area, has advised Level 3 that CenturyLink will not route traffic associated with a telephone number assigned to the Level 3 ES OCN over the existing Level 3 LEC interconnection facilities, notwithstanding that these trunks already carry voice traffic to Level 3 ES customers in addition to traffic bound for non-affiliated customers of Level 3. CenturyLink insists instead that Level 3 purchase additional interconnection trunks between Level 3 LEC and CenturyLink that would be dedicated to traffic bound for telephone numbers assigned to the Level 3 ES OCN.<sup>2</sup> CenturyLink has, however, not identified any technical obstacle that would prevent it from routing traffic over the existing interconnection trunks. Meanwhile, as noted above, traffic is routing successfully in other regions in similar circumstances as a part of the trial without any such dedicated facilities.

CenturyLink’s position with respect to this traffic cannot be reconciled with industry practice in general, or even CenturyLink’s own practice. For example, Level 3 Communications, Inc. has, over time, acquired a number of other companies that each had their own OCNs and telephone numbers associated with those OCNs. While in some cases Level 3 has ported those telephone numbers over to the Level 3 LEC OCN, in some cases it has not or has not done so right away. In all situations, Level 3 would have updated the LERG appropriately to reflect the new relationship. In no case has a carrier refused to route traffic bound for the acquired company’s telephone numbers to and over the existing Level 3 LEC facilities solely because the traffic is associated with a telephone number with a different OCN (a code that does not necessarily have anything to do with routing). More specifically, Level 3 has never encountered a situation in which a carrier in any circumstance has refused to implement a LERG update. Moreover, CenturyLink in particular has previously had no objection to routing traffic over common trunks to the Level 3 LEC without regard to whether those trunks carried only traffic associated with one OCN or traffic associated with multiple OCNs. Specifically, CenturyLink today, in multiple states, including Washington and Minnesota, routes traffic associated with both the Level 3 LEC OCN and the Broadwing OCN over a single set of existing Level 3 LEC-

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<sup>2</sup> CenturyLink has not demanded that Level 3 ES establish a direct connection with CenturyLink. Rather, CenturyLink has demanded only that Level 3 LEC have dedicated trunks for certain Level 3 ES traffic, although again, the demand applies only to a small fraction of Level 3 ES traffic (and an even smaller fraction of all traffic exchanged over the Level 3 LEC facilities bound for various entities).

CenturyLink LIS trunks.<sup>3</sup> CenturyLink has been successfully, and without objection, routing traffic in those circumstances since 2010.

As noted above, CenturyLink has identified no technical obstacle to routing traffic as other carriers are doing and as it itself does elsewhere. Indeed, CenturyLink has not claimed that performing any necessary tasks to permit the traffic to route would be burdensome or costly. CenturyLink instead has stated that will not, as a matter of policy, route the traffic. But CenturyLink has provided no defensible justification for its policy. In particular, CenturyLink has not identified any material respect in which Level 3 ES-bound traffic associated with the Level 3 ES OCN differs from Level 3 ES-bound traffic associated with the Level 3 LEC OCN that could justify having a separate set of trunks for the former but not the latter.<sup>4</sup> Nor has CenturyLink explained what, in its view, justifies a different policy with respect to the routing at issue here from the routing it does not object to in Washington or Minnesota.

The Level 3 representatives noted that CenturyLink's refusal to route traffic also raises concerns regarding the availability of numbers to other carriers in the Denver area. The Level 3 representatives explained that other carriers have requested telephone numbers in the Level 3 ES A-block. Level 3 cannot, however, "activate" its A-block until it can successfully test routing for the A-block, which it cannot do so long as CenturyLink refuses to route traffic to it. As a result, the other carriers that have requested telephone numbers in the Level 3 ES A-block are not able to put the numbers they have requested into service.

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<sup>3</sup> Broadwing is one of the companies that was acquired by Level 3 that had its own OCN and telephone numbers associated with that OCN.

<sup>4</sup> As noted previously, Level 3 LEC is able to send CenturyLink test calls over the existing facilities; testing has failed only with respect to calls that CenturyLink would pass to Level 3 LEC for phone numbers associated with Level 3 ES.

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Finally, the Level 3 representatives observed that this dispute, which revolves around whether CenturyLink may unilaterally require Level 3 LEC to purchase facilities without technical or other justification before CenturyLink will route traffic to it, appears to have little to do with the numbering trial itself. Nevertheless, because it has arisen in the context of the Commission's trial, it would be appropriate for the Commission to take action to clarify that carriers like CenturyLink may not refuse to route traffic under these circumstances.

Please do not hesitate to contact me with any questions regarding this matter.

Sincerely,

/s/ Joseph C. Cavender  
Joseph C. Cavender

cc: Bill Dever  
Melissa Kirkel  
Ann Stevens  
John Visclosky  
Sanford Williams