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

	)	
In the Matter of	)	File No.: EB-12-IH-0087
	)	
Level 3 Communications, LLC	)	Acct. No.: 201332080014
	)	
	)	FRN: 0017585993

CONSENT DECREE

The Enforcement Bureau of the Federal Communications Commission and Level 3 Communications, LLC (Level 3), by their respective authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau's investigation into possible violations of Sections 201(b) and 202(a) of the Communications Act of 1934, as amended,[1] with respect to Level 3's call completion practices to rural areas, including its use and monitoring of intermediate providers.

I. DEFINITIONS

1. For the purposes of this Consent Decree, the following definitions shall apply:

(a) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. §§ 151 *et seq*.

(b) "Adopting Order" means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.

(c) "Benchmark Call Completion Rate" means, with respect to Enterprise Customer Calls or Wholesale Customer Calls, the Call Completion Rate to Non-rural Incumbent Locations on the Legacy Level 3 network for each such category of traffic.

(d) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.

(e) "Call Completion Rate" means, for Enterprise Customer Calls, a completion rate calculated by dividing the total number of calls completed by the total number of call attempts. For Wholesale Customer Calls, "Call Completion Rate" means a completion rate calculated by dividing the total number of calls completed by the total number of call attempts, after first subtracting all calls handed by Level 3 back to the entity delivering them to Level 3 for termination. For purposes of this definition, a completed call is a call that was answered by or on behalf of the called party (including calls completed

[1] 47 U.S.C. §§ 201(b), 202(a).

to devices, services or parties that answer the call such as an interactive voice response, answering service, voicemail or call-forwarding system).

(f) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.

(g) "Communications Laws" means, collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which Level 3 is subject by virtue of its business activities.

(h) "Compliance Plan" means the compliance program, obligations, and procedures described in Paragraph 16 of this Consent Decree.

(i) "Covered Employees" means all employees and agents of Level 3 who supervise, oversee, or manage the performance of duties that relate to Level 3's compliance obligations under this Consent Decree.

(j) "Effective Date" means the date on which the Bureau releases the Adopting Order.

(k) "Enterprise Customer Calls" means interexchange calls from Level 3 customers that are not (i) Wholesale Customer Calls, or (ii) determined by Level 3 to be originating from telemarketers, as defined in 47 C.F.R. § 64.1200(f)(11), or other mass-dialers.

(l) "Intermediate Provider" has the meaning provided in 47 C.F.R. § 64.1600(f), but excludes a tandem provider to which the terminating carrier subtends or a carrier to which the terminating carrier requires an indirectly interconnecting carrier to deliver traffic.

(m) "Investigation" means the investigation commenced by the Bureau's January 30, 2012 letter of inquiry in File No. EB-12-IH-0087 pertaining to possible violations of Sections 201 and 202 of the Act and the Commission's prohibition on unreasonable call blocking by carriers.

(n) "Legacy Global Crossing" means the North American voice network owned and operated by Global Crossing Telecommunications, Inc. before its parent company Global Crossing Limited's transaction with Level 3 Communications Inc.

(o) "Legacy Level 3" means the North American voice network owned and operated by Level 3 Communications, LLC, before its parent company Level 3 Communications Inc.'s transaction with Global Crossing Limited.

(p) "Level 3" or "Company" means Level 3 Communications, LLC, and any subsidiaries or affiliates, as defined in 47 U.S.C. § 153(1), providing domestic interexchange telecommunications services or interconnected VoIP services within the United States, except for newly acquired networks excluded by Paragraph 27 of this Consent Decree.

(q) "Local Exchange Carrier" has the meaning provided in 47 U.S.C. §153(32).

(r) "Network Failure" means an outage reportable under the FCC's outage reporting requirements, 47 C.F.R. Part 4.

(s) "Non-rural Incumbent Locations" means locations that: (i) are not Rural Incumbent Locations; and (ii) are served by an Incumbent Local Exchange Carrier as defined in 47 U.S.C. § 251(h).

(t) "Operating Procedures" means the standard, internal operating procedures and compliance policies established by Level 3 to implement the Compliance Plan.

(u) "Parties" means Level 3 and the Bureau, each of which is a "Party."

(v) "Post-Dial Delay" means the period starting when the address information required for setting up a call is received by the network (recognized on the calling user's access line) and finishing when the called party busy tone, ringing tone, or answer signal is received by the calling party (i.e., recognized on the calling user's access line).

(w) "Price Cap LEC" means a Price Cap Local Exchange Carrier as defined in 47 C.F.R. § 61.3(bb).

(x) "Rules" means the Commission's regulations found in Title 47 of the Code of Federal Regulations.

(y) "Rural Call Completion Rate" means the Call Completion Rate for calls destined for Rural Incumbent Locations.

(z) "Rural Call Quality Commitment" means the performance standard described in Paragraph 16(b) of this Consent Decree.

(aa) "Rural Incumbent Locations" means locations served by a Rural Incumbent Local Exchange Carrier, as defined at 47 C.F.R. § 54.5, that is not an affiliate of a Price Cap LEC.

(bb) "Termination Date" means the date on which the compliance obligations in this Consent Decree terminate, as provided in Paragraph 19.

(cc) "Wholesale" means voice telecommunications sold by Level 3 to customers that purchase the service and incorporate it into their own offerings of telecommunications services, interconnected VoIP services (as defined in 47 C.F.R. § 9.3) that are terminated on the public switched telephone network, or non-interconnected VoIP services (as defined in 47 C.F.R. § 14.10(q)) that are terminated on the public switched telephone network.

(dd) "Wholesale Customer Calls" mean interexchange calls from Level 3 Wholesale customers that are not determined by Level 3 to be originating from telemarketers, as defined in 47 C.F.R. § 64.1200(f)(11), or other mass-dialers.

II. BACKGROUND

2. Section 201(b) of the Act provides, "All charges, practices, classifications, and regulations for and in connection with [interstate and foreign] communication service, shall be just and reasonable, and any such charge, practice, classification, or regulation that is unjust or unreasonable is hereby declared to be unlawful."[2] Section 202(a) states, "It shall be unlawful for any common carrier to make any unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services for or in connection with like communication service, directly or indirectly, by any means or device, . . . or to subject any particular person, class of persons, or locality to any undue or unreasonable prejudice or disadvantage."[3]

3. The Commission has emphasized that "it is vital that our Nation maintains a communications network that offers reliable and resilient service."[4] The Commission has also recognized that "permitting blocking or the refusal to deliver voice telephone traffic, whether as a means of 'self-help' to address perceived unreasonable intercarrier compensation charges or otherwise, risks 'degradation of the country's telecommunications network.'"[5] To prevent that, the Commission has consistently held that telecommunications carriers, including interexchange carriers, generally may not "'block, choke, reduce, or restrict traffic in any way.'"[6]

4. In June 2011, a coalition of trade associations representing rural local exchange carriers (rural LECs) sent a letter to the Bureau concerning "a nationwide and industry-wide epidemic" of calls to rural areas failing to complete or having poor call quality.[7] In September 2011, the Commission announced that it had created a Rural Call Completion Task Force "to investigate and address the growing problem of calls to rural customers that are being delayed or that fail to connect."[8] The Bureau subsequently initiated several rural call completion investigations.

5. Level 3 offers a variety of telecommunications services throughout the United States, including interexchange (long distance) voice service. In September 2011, the Commission approved the transfer of control of Commission licenses and authorizations from Global Crossing Limited to Level 3

---

[2] 47 U.S.C. § 201(b).

[3] *Id.* § 202(a).

[4] *Reliability and Continuity of Communications Networks*, *Including Broadband Technologies*, Notice of Inquiry, 26 FCC Rcd 5614, 5616, para. 5 (2011); *see also Establishing Just and Reasonable Rates for Local Exchange Carriers*, Declaratory Ruling and Order, 22 FCC Rcd 11629, para. 1 (Wireline Comp. Bur. 2007) (*Call Blocking Declaratory Ruling*) ("the ubiquity and reliability of the nation's telecommunications network is of paramount importance to the explicit goals of the Communications Act").

[5] *Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 18029, para. 973 (2011) (quoting *Access Charge Reform*, Seventh Report and Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd 9923, 9933, para. 24 (2001) (*Universal Service/Intercarrier Compensation Reform Order*)).

[6] *Id.* at 17903, para. 734 (quoting *Call Blocking Declaratory Ruling*, 22 FCC Rcd at 11631, para. 6).

[7] Letter from Michael Romano, National Telecommunications Cooperative Association, *et al.*, to Theresa Z. Cavanaugh, Acting Chief and Margaret Dailey, Attorney Advisor, Investigations & Hearings Division, FCC Enforcement Bureau at 3 (filed June 13, 2011, in EB-12-IH-0087).

[8] *FCC Launches Rural Call Completion Task Force to Address Call Routing and Termination Problems in Rural America*, News Release, 2011 WL 4454097 (Sept. 26, 2011), http://www.fcc.gov/document/fcc-launches-rural-call-completion-task-force-sets-oct-18-workshop. The Task Force conducted a workshop on rural call completion issues on October 18, 2011. *See* http://www.fcc.gov/events/rural-call-completion-workshop.

Communications, Inc.[9] Like all major interexchange carriers, Level 3 must rely on Intermediate Providers (sometimes referred to as "least cost routers") to complete a portion of its calls.

6. On January 30, 2012, the Bureau sent a letter of inquiry (LOI) to Level 3 seeking information about its performance, and the performance of its Intermediate Providers, in completing long distance calls.[10] Among other issues, the LOI asked whether, in the ordinary course of business, Level 3 tracked call completion rates for outgoing long distance calls.[11]

7. On February 6, 2012, the Wireline Competition Bureau (WCB) clarified in a declaratory ruling that "it is an unjust and unreasonable practice in violation of section 201 of the Act for a carrier that knows or should know that it is providing degraded service to certain areas to fail to correct the problem or to fail to ensure that intermediate providers, least-cost routers, or other entities acting for or employed by the carrier are performing adequately."[12] WCB further clarified that "adopting or perpetuating routing practices that result in lower quality service to rural or high-cost localities than like service to urban or lower cost localities (including other lower cost rural areas) may, in the absence of a persuasive explanation, constitute unjust or unreasonable discrimination in practices, facilities, or services and violate section 202 of the Act."[13]

8. On February 24, 2012, Level 3 notified the Bureau that although the Company monitored its own call completion and Intermediate Provider performance, it did not, in the regular course of business, maintain the call completion data requested in the LOI in a manner conducive to useful production.[14] Nevertheless, Level 3 worked cooperatively with the Bureau to develop alternative call completion data. In particular, Level 3 proposed conducting a traffic study of randomly selected months that would show call attempts and completion statistics for calls initiated by Level 3 customers terminated to rural and non-rural telephone company exchanges.[15] Level 3 proposed differentiating calls to rural areas from calls to non-rural areas based on the operating company numbers of terminating carriers.[16]

---

[9] *Applications Filed by Global Crossing Limited and Level 3 Communications, Inc. for Consent to Transfer Control*, Memorandum Opinion and Order and Declaratory Ruling, 26 FCC Rcd 14056, 14057, para. 1 (2011).

[10] Letter from Theresa Cavanaugh, Acting Chief, Investigations & Hearings Division, FCC Enforcement Bureau, to Neil Eckstein, Senior Vice President, Level 3 Communications, Inc. (Jan. 30, 2012) (on file in EB-12-IH-0087).

[11] *Id.* at 3.

[12] *Developing an Unified Intercarrier Compensation Regime*, Declaratory Ruling, 27 FCC Rcd 1351, 1355–56, para. 12 (Wireline Comp. Bur. 2012) (footnote omitted).

[13] *Id.* at 1357-58, para. 14.

[14] E-mail from John Nakahata, Wiltshire & Grannis LLP, to Margaret Dailey, Attorney Advisor, Investigations & Hearings Division, FCC Enforcement Bureau (Feb. 24, 2012, 17:14 EST; *see also* Letter from John Nakahata, Wiltshire & Grannis LLP, to Marlene Dortch, Secretary, FCC (Feb. 29, 2012) (on file in EB-12-IH-0087) (LOI Response).

[15] *Id.*

[16] *Id.* An operating company number (OCN) is an alphanumeric code that uniquely identifies providers of local telecommunications service. *See, e.g.*, http://www.atis.org/glossary/definition.aspx?id=8448. OCNs are used in billing records to identify local telecommunications providers. *See Universal Service/Intercarrier Compensation Reform Order*, 26 FCC Rcd at 17899 n.1251. By segregating long distance calls to rural LECs from calls to non-rural LECs based on OCNs, Level 3 reasonably could identify calls to rural and non-rural areas.

9. Level 3 provided its initial response to the LOI on February 29, 2012.[17] After further discussion, the parties agreed that Level 3 would conduct the traffic study and provide the results to the Bureau.[18] In August 2012, Level 3 produced study results for Legacy Level 3, Legacy Global Crossing, and the Intermediate Providers they used to deliver traffic.[19] In September and October, 2012, Level 3 advocated additional refinements to the study methodology and produced additional study results regarding Legacy Level 3's call completion performance to incumbent local exchange carriers.[20]

10. Level 3 and the Bureau have worked cooperatively for nearly a year to develop a mechanism by which the Bureau can track Level 3's rural call completion and ensure that Level 3's performance demonstrably meets the requirements of Sections 201(b) and 202(a). Level 3 has committed to invest capital and other resources in systems and processes to develop and implement a benchmark process for rural call completion.

III. TERMS OF AGREEMENT

11. **Adopting Order**. The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order. The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein.

12. **Jurisdiction**. Level 3 agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and that the Bureau has the authority to enter into and adopt this Consent Decree.

13. **Effective Date; Violations**. The Parties agree that this Consent Decree shall become effective on the Effective Date except as otherwise provided. As of the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission. Any violation of the Adopting Order or of the terms of this Consent Decree, excluding violations of Paragraph 16(b) for which remedies are prescribed in Paragraph 20(b), shall constitute a separate violation of a Commission order entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

---

[17] *See* LOI Response. Level 3 provided supplemental responses on March 14 and April 13, 2012. *See* Letters from John Nakahata, Wiltshire & Grannis LLP, to Margaret Dailey, Attorney Advisor, Investigations & Hearings Division, FCC Enforcement Bureau (March 14, 2012; April 13, 2012) (on file in EB-12-IH-0087). The Bureau submitted supplemental questions to Level 3 on May 18, 2012. *See* E-mail from Margaret Dailey, Attorney Advisor, Investigations & Hearings Division, FCC Enforcement Bureau, to John Nakahata, Wiltshire & Grannis LLP (May 18, 2012, 17:19 EDT). Level 3 responded to those questions on June 1 and June 13, 2012. *See* E-mail from Patrick O'Donnell, Wiltshire & Grannis LLP, to Margaret Dailey, Attorney Advisor, Investigations & Hearings Division, FCC Enforcement Bureau (June 1, 2012, 16:54 EDT); E-mail from Erin Galliher, Wiltshire & Grannis LLP, to Margaret Dailey, Attorney Advisor, Investigations & Hearings Division, FCC Enforcement Bureau (June 13, 2012, 11:17 EDT).

[18] *See* E-mail from Patrick O'Donnell, Wiltshire & Grannis LLP, to Margaret Dailey, Attorney Advisor, Investigations & Hearings Division, FCC Enforcement Bureau (Mar. 9, 2012, 13:52 EST).

[19] *See* E-mail from Patrick O'Donnell, Wiltshire & Grannis LLP, to Margaret Dailey, Attorney Advisor, Investigations & Hearings Division, FCC Enforcement Bureau (August 9, 2012, 9:51 EDT). The study results covered both interstate and intrastate long distance calls.

[20] *See, e.g.*, E-mail from Mike Carlson, Wiltshire & Grannis LLP, to Margaret Dailey, Attorney Advisor, Investigations & Hearings Division, FCC Enforcement Bureau (October 16, 2012, 17:40 EDT).

14. **Termination of Investigation**. In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, Level 3 agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that in the absence of new material evidence, the Bureau will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any new proceeding, formal or informal, or take any action on its own motion against Level 3 concerning the matters that were the subject of the Investigation. The Bureau also agrees that in the absence of new material evidence it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against Level 3 with respect to Level 3's basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission licenses or authorizations.

15. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, Level 3 shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as a Compliance Officer and to discharge the duties set forth below. The person designated as the Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that Level 3 complies with the terms and conditions of the Compliance Plan and this Consent Decree. The Compliance Officer shall have general knowledge of the Communications Laws necessary to discharge his/her duties under this Consent Decree.

16. **Compliance Plan.** For purposes of settling the matters set forth herein, Level 3 agrees that it shall develop and implement a Compliance Plan designed to ensure that Level 3's Rural Call Completion Rates meet the terms and conditions of this Consent Decree and thus demonstrably comply with the requirements of Sections 201(b) and 202(a) of the Act and current rules. The Compliance Plan will ensure future compliance with the Communications Laws and with the terms and conditions of this Consent Decree, and shall include the following components:

(a) **Operating Procedures**. Within sixty (60) calendar days after the Effective Date, Level 3 shall establish detailed Operating Procedures to ensure Level 3's compliance with this Consent Decree and Sections 201(b) and 202(a) of the Act with respect to Rural Call Completion Rates.

(b) **Rural Call Quality Commitment**. As further detailed below, Level 3 will maintain a Call Completion Rate for each category of: (i) Wholesale Customer Calls to Rural Incumbent Locations, and (ii) Enterprise Customer Calls to Rural Incumbent Locations that is no lower than five percent (500 basis points) below the Benchmark Call Completion Rate for each category, respectively. Level 3 will also, to the extent commercially reasonable, maintain an Enterprise Customer Call Completion Rate to Rural Incumbent Locations that is at least equal to the Benchmark Call Completion Rate for Enterprise Customer Calls. For purposes of this commitment, Level 3 will measure and monitor Call Completion Rates as described and reported pursuant to Paragraph 17(a) and (c) below.

(c) **Network Changes to Facilitate Monitoring and Routing for Enterprise and Wholesale Customer Calls.** Level 3 will adopt network configurations that will allow it to monitor Rural and Benchmark Call Completion Rates for Enterprise Customer Calls and Wholesale Customer Calls originating on both the Legacy Level 3 and Legacy Global Crossing networks. Level 3 will utilize the following route options on a commercially reasonable basis:

(i) The Legacy Level 3 Feature Group Network;

(ii) Legacy Level 3's Co-carrier Network; or

(iii) Select Intermediate Providers. Intermediate Providers used to route Enterprise and Wholesale Customer Calls will be monitored and, to the extent commercially reasonable, will be included in these route options only if a vendor maintains a Call Completion Rate adequate to allow Level 3 to meet its commitments under this Consent Decree.

(d) **Intermediate Provider Monitoring and Follow Up**. Level 3 will monitor the performance of Intermediate Providers used to route Wholesale Customer Calls placed through the Legacy Level 3 network, and Enterprise Customer Calls placed through the Legacy Level 3 network and the Legacy Global Crossing network, downstream from Level 3 as follows:

(i) Level 3 will develop Intermediate Provider scorecards that will contain measurements of Intermediate Provider performance in the areas of Post-Dial Delay, Network Failure, and Call Completion Rates.

(ii) Level 3 will identify problematic routes to Intermediate Providers no less frequently than once per calendar month. If an Intermediate Provider does not provide adequate performance on a particular route (as reasonably determined by Level 3 in light of its obligations under this Consent Decree), it will be taken out of the route options for that location in Level 3's Least Cost Routing Engine, provided that other Intermediate Providers offer commercially reasonable options for reaching that location.

(iii) If an Intermediate Provider demonstrates sustained inadequate performance (as reasonably determined by Level 3 in light of its obligations under this Consent Decree), Level 3 shall remove that Intermediate Provider from all routes, provided other commercially reasonable Intermediate Provider options exist to the routes served by that Intermediate Provider and such removal is commercially reasonable. If Level 3 finds that it is not commercially reasonable to remove an Intermediate Provider with sustained inadequate performance from all routes, Level 3 will notify the Bureau within ten (10) days of making that finding. Level 3 will not reinstate any Intermediate Provider removed under this Paragraph until it receives the Intermediate Provider's assurance that it has identified and remedied the cause of its previous sustained inadequate performance. Level 3 will carefully monitor any such Intermediate Providers following reinstatement. Level 3 shall take all commercially reasonable steps to ensure that its relationships with Intermediate Providers are consistent with its obligations under this Consent Decree.

(iv) Level 3 will notify any service provider it has reason to believe is causing call completion problems, and will work cooperatively with each such service provider in analyzing and resolving such problems as soon as practicable.

(e) **Testing**. Level 3 will cooperate with the FCC and with rural carriers to undertake commercially reasonable steps to establish test points and uniform test criteria to

evaluate rural call completion when monitoring data or when complaints suggest potential rural call completion problems.

(f) **Compliance Manual.** Within sixty (60) calendar days after the Effective Date, the Compliance Officer shall develop and distribute a Compliance Manual to all Covered Employees. The Compliance Manual shall explain Level 3's obligations under this Consent Decree and shall detail the compliance procedures and methods discussed above. Level 3 shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and complete. Level 3 shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.

(g) **Compliance Training Program**. Level 3 shall establish and implement a Compliance Training Program on compliance with the Operating Procedures, Compliance Plan, and the other terms of this Consent Decree. As part of the Compliance Training Program, Covered Employees shall be advised of Level 3's obligation to report noncompliance under paragraph 18 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. Any new Covered Employee shall be similarly trained.

17. **Compliance Reports**. Level 3 will begin work to implement Paragraphs 16(a) through 16(d) immediately. Paragraph 16(b) shall be effective beginning October 1, 2013. Paragraphs 16(c) and 16(d) shall be effective beginning one-hundred and twenty (120) days after the Effective Date. Level 3 shall file Compliance Reports with the Bureau as follows:

(a) Level 3 will report to the Enforcement Bureau its Rural and Benchmark Call Completion Rates as described in Paragraph 16(b) pursuant to the following schedule:

(i) The first report shall be submitted on or before January 31, 2014, and will cover the period from October 1, 2013 through December 31, 2013. To the extent practicable, Level 3 will also provide a preliminary report of data for the Legacy Level 3 network only for the period from July 1, 2013 through September 30, 2013 (submitted on or before October 31, 2013).

(ii) For quarterly periods beginning after January 1, 2014, through the Termination Date, Level 3 shall submit reports as follows: on or before April 30, for the preceding January through March; on or before July 31, for the preceding April through June; on or before October 31, for the preceding July through September, and on or before January 31, for the preceding October through December.

(b) In addition to the information required by the Rural Call Quality Commitment in Paragraph 16(b), Level 3 will also provide, as part of those reports, Rural and Benchmark Call Completion Rates for the following sub-categories: (i) calls routed through Intermediate Providers; and (ii) calls not routed through Intermediate Providers. These sub-categories will not be used in applying the Rural Call Quality Commitment.

(c) The methodology Level 3 will use to implement this Paragraph 17 is described in Appendix A to this Consent Decree. Level 3 will submit any proposed refinements to this methodology for approval to the Bureau, and agrees to meet with the Bureau at a mutually convenient time should any methodology problems arise.

(d) For so long as Paragraphs 17(a) and (b) remain in effect, Level 3 will comply with and not object to any administrative subpoena from the Bureau requiring it to produce the following information concerning Intermediate Providers used by Level 3: (i) Intermediate Provider scorecards prepared pursuant to Paragraph 16(d)(i); and (ii) Intermediate Provider Call Completion Rates, in the form set forth in Appendix B of this Consent Decree, for the reporting periods set forth in Paragraph 17(a). Level 3 may request confidential treatment, pursuant to 47 C.F.R. § 0.459, of any such information produced. Notwithstanding the foregoing, Level 3 consents to the Bureau's disclosure of any information provided in response to such an administrative subpoena to the Intermediate Provider to which that information pertains. The Parties shall meet and confer regarding the information provided pursuant to this Paragraph 17(d), by telephone or in person, at a mutually convenient time.

18. **Reporting Noncompliance**. Level 3 shall report any noncompliance with Paragraph 16(d) through 16(g) of this Consent Decree within fifteen (15) calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of (i) each instance of noncompliance; (ii) the steps that Level 3 has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that Level 3 has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, Room 3-C330, 445 12th Street, S.W. Washington, D.C. 20554, with a copy submitted electronically to Theresa Z. Cavanaugh at Terry.Cavanaugh@fcc.gov and Margaret Dailey at Margaret.Dailey@fcc.gov.

19. **Termination Date**. Unless stated otherwise, the obligations set forth in Paragraphs 15 through 18 in this Consent Decree shall expire either (a) when Level 3 has satisfied the Rural Call Quality Commitment for eight (8) consecutive reporting periods (two (2) years) or (b) three (3) years after the Effective Date, whichever shall occur first.

20. **Voluntary Contribution**. Level 3 agrees that it will make voluntary contributions to the United States Treasury as follows:

(a) Level 3 shall make a voluntary contribution (Voluntary Contribution) in the aggregate amount of nine hundred and seventy-five thousand dollars ($975,000) in three installments (Installment Payments), each in the amount of three hundred twenty-five thousand dollars ($325,000), on the following payment schedule: the first Installment Payment is due within thirty (30) calendar days after the Effective Date; the second Installment Payment is due within one hundred eighty (180) calendar days after the Effective Date; and the third Installment Payment is due within one year of the Effective Date.

(b) For each quarterly reporting period described in Paragraph 17(a) beginning on or after October 1, 2013, if Level 3 fails to meet the Rural Call Quality Commitment under Paragraph 16(b), Level 3 shall make an additional voluntary contribution to the United States Treasury (Additional Voluntary Contribution) of one million dollars

($1,000,000) within thirty (30) days after the filing of the report pursuant to Paragraph 17(a) documenting such failure.

(c) Level 3 acknowledges and agrees that upon execution of this Consent Decree, the Voluntary Contribution and each Installment Payment shall become a "Claim" or "Debt" as defined in 31 U.S.C. § 3701(b)(1).[21] Level 3 further acknowledges and agrees that each Additional Voluntary Contribution shall become a "Claim" or "Debt" as defined in 31 U.S.C. § 3701(b)(1) on the date Level 3 files a quarterly report under Paragraph 17(a) documenting that it failed to meet the Rural Call Quality Commitment in Paragraph 16(b). Upon an Event of Default (as defined in Paragraph 21 below), all procedures for collection as permitted by law may, at the Commission's discretion, be initiated. In addition, Level 3 agrees that it will make the first and all subsequent Installment Payments and Additional Voluntary Contributions in United States Dollars without further demand or notice by the dates specified above.

(d) Level 3 shall also send electronic notification of each payment to Theresa Z. Cavanaugh at Terry.Cavanaugh@fcc.gov and Margaret Dailey at Margaret.Dailey@fcc.gov on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the Account number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.[22] When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions Level 3 will follow based on the form of payment it selects:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

[21] Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996).

[22] An FCC Form 159 and detailed instructions for completing the form may be obtained at http://www.fcc.gov/Forms/Form159/159.pdf.

Questions regarding payment procedures should be addressed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

21. **Event of Default**. Level 3 agrees that an Event of Default shall occur upon the failure by Level 3 to pay the full amount of any Installment Payment under Paragraph 20(a) or Additional Voluntary Contribution under Paragraph 20(b) on or before the due date specified in this Consent Decree.

22. **Interest, Charges for Collection, and Acceleration of Maturity Date**. After an Event of Default has occurred under this Consent Decree, the then-unpaid amount of the Voluntary Contribution or Additional Voluntary Contribution shall accrue interest, computed using the U.S. Prime Rate in effect on the date of the Event of Default plus 4.75 percent, from the date of the Event of Default until payment in full. Upon an Event of Default, the then-unpaid amount of the Voluntary Contribution or Additional Voluntary Contribution, together with interest, as aforesaid, any penalties permitted and/or required by the law, including but not limited to 31 U.S.C. § 3717 and administrative charge(s), plus the costs of collection, litigation, and attorneys' fees, shall become immediately due and payable, without notice, presentment, demand, protest, or notice of protest of any kind, all of which are waived by Level 3.

23. **Section 208 Complaints; Subsequent Investigations**. Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints filed pursuant to Section 208 of the Act against Level 3 or its affiliates for alleged violations of the Communications Laws, or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaints will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by Level 3 or its affiliates with the Communications Laws. Notwithstanding the foregoing, for the duration of this Consent Decree and except to the extent specific provisions may be invalidated pursuant to Paragraph 25 or superseded pursuant to Paragraph 26, unless Level 3 violates the terms of this Consent Decree and the Adopting Order, the Commission will not initiate another investigation of Level 3 or its affiliates for violations of Section 201(b) or 202(a) of the Act with respect to Rural Call Completion Rates and associated practices in the absence of evidence of impermissible intentional call blocking, except that, notwithstanding the foregoing, this Consent Decree does not limit the Commission's ability to investigate any newly acquired network covered by Paragraph 27 below.

24. **Waivers**. Level 3 waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Bureau issues an Adopting Order as defined herein. Level 3 shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If any Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, Level 3 and the Commission shall not contest the validity of the Consent Decree or of the Adopting Order, and Level 3 shall waive any statutory right to a trial *de novo*. Level 3 hereby agrees to waive any claims it may have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq*., relating to the matters addressed in this Consent Decree.

25. **Invalidity**. In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

26. **Subsequent Rule or Order**. The Parties agree that if any provision of the Consent Decree conflicts with any subsequent Rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which Level 3 does not expressly consent), that provision will be superseded by such Rule or Commission order. In particular, the Parties

agree that should the Commission adopt any subsequent Rule or order establishing performance standards for Rural Call Completion Rates, Level 3 will be held to the same standards (unless specifically waived), and Paragraphs 16(b) and 20(b) of this Consent Decree shall be superseded as of the date the non-waived performance standards in the Commission Rule or order become effective. If the Commission establishes generally applicable requirements by Rule or order establishing Rural Call Completion reporting requirements, Level 3 will comply with those requirements. At Level 3's request, the Commission and Level 3 will meet to discuss and determine whether reporting obligations in this Consent Decree are no longer necessary or are unduly burdensome in light of any such new, industry-wide mandatory reporting requirements, and Level 3 may petition for a waiver of any such reporting obligations in this Consent Decree.

27. **Successors and Assigns; Subsequent Mergers and Acquisitions**. Level 3 agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees. If Level 3 acquires all or a part of another company's network after the Effective Date, the obligations in this Consent Decree shall not apply to the newly acquired network, regardless of the form of any such acquisition.

28. **Force Majeure**. If a cause beyond Level 3's reasonable control prevents Level 3 from meeting any obligation under this Consent Decree, Level 3 shall not be liable to the Commission or in default or breach of this Consent Decree for any delay or failure in performance of any part of this Consent Decree but only insofar as such default or breach is caused by such force majeure. If Level 3 claims that an event releases it from any obligation of the Consent Decree under this Paragraph, Level 3 will notify the Commission in writing within sixty (60) days of the event's occurrence.

29. **Final Settlement**. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation. The Parties further agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the Communications Laws. By agreeing to this Consent Decree, Level 3 does not admit noncompliance, violation or liability for violating the Communications Laws in connection with the matters that are the subject of this Consent Decree, and the Bureau does not concede that Level 3 complied with the Communications Laws or that the Investigation was not well founded.

30. **Modifications**. This Consent Decree cannot be modified without the advance written consent of both Parties.

31. **Paragraph Headings**. The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

32. **Authorized Representative**. The individual signing this Consent Decree on behalf of Level 3 represents and warrants that he is authorized by Level 3 to execute this Consent Decree and to bind Level 3 to the obligations set forth herein. The FCC signatory represents that she is signing this Consent Decree in her official capacity and that she is authorized to execute this Consent Decree.

33. **Counterparts**. This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

_____
P. Michele Ellison
Chief
Enforcement Bureau

_____
Date

_____
John Ryan
Chief Legal Officer
Level 3 Communications, LLC

_____
Date

APPENDIX A

INITIAL CALL COMPLETION METHODOLOGY

I. Call Completion Formulas

Level 3 will use the following formulas to determine Call Completion Rates.

A. Enterprise Customer Call Completion Formula

Expressed as a Percentage:

100 x Completed Calls / Call Attempts

B. Wholesale Customer Call Completion Formula

Expressed as a Percentage:

100 x Completed Calls / (Call Attempts – Returned Calls)

II. Identification of Call Attempts, Completed Calls and Returned Calls

Call Attempts	Network Communication that contains a valid Domestic US Area Code (as applicable) (NPA), a valid Exchange (NXX) and Station Code received from a Level 3 Customer via either dual-tone multi-frequency signaling, a SS7 Initial Address Message or SIP Invite Message, that requests a communications path to a customer of an Incumbent Telephone Carrier.
Completed Call	Any Call Attempt that receives an SS7 Answer Notification Message (ANM).
Returned Call	Any Call Attempt that is released back to a Wholesale Customer with one of the following Release Case or SIP Response Codes:

Q.931 Release Cause Code	Description	SIP Reason Code	SIP Reason Code Description
2	No Route To Specified Transit Network		
3	No Route To Destination		
34	No Circuit / Channel Available		
38	Network Out Of Order	502	Bad Gateway
41	Temporary Failure	400	Bad Request
41	Temporary Failure	481	Call/Transaction Does Not Exist
41	Temporary Failure	500	Server Internal Error
41	Temporary Failure	503	Service Unavailable
41	Temporary Failure	504	Server Time-out

42	Switching Equipment Congestion
44	Requested Circuit Channel Not Available
47	Resource Unavailable, Unspecified
128	[SONUS] Resources Allocation Failure [Mapped to Q.931 34]
130	[SONUS] Insufficient Destination Resources [Mapped to Q.931 34]
135	[SONUS] Collision Reattempt Exhausted [Mapped to Q.931 41]
140	[SONUS] Circuit Endpoint Resource Allocation Failure [Mapped to Q.931 34]

III. Identification of Mass-Dialer Customers

"Mass-dialer" means an entity that purchases service from Level 3 where the service is used in generating calls through an autodialer as defined at 47 C.F.R. § 64.1200(f)(2) (2013) or software providing substantially the same functionality, or any other practice resulting in a large volume of short-duration calls, such as a telemarketing "boiler-room" operation. Level 3 will identify as a mass-dialer any entity that (1) self-identifies as using such an autodialer or software or (2) Level 3 reasonably determines to be placing a large volume of short-duration calls.

IV. Identification of Wholesale Customers

Paragraph 1(dd) of the Consent Decree defines "Wholesale Customer Calls" to mean "interexchange calls from Level 3 Wholesale customers that are not determined by Level 3 to be originating from telemarketers or other mass-dialers." Paragraph 1(cc) defines "Wholesale" to mean voice telecommunications sold by Level 3 to customers that purchase the service and incorporate it into their own offerings of telecommunications services, interconnected VoIP services (as defined in 47 C.F.R. § 9.3) that are terminated on the public switched telephone network, or non-interconnected VoIP services (as defined in 47 C.F.R. § 14.10(q)) that are terminated on the public switched telephone network. Level 3 will identify Wholesale customers according to whether, for the service for which Level 3 is arranging for the termination of that customer's traffic, (1) Level 3 receives a Federal Universal Service Fund Reseller Certification stating that the customer is purchasing service for resale; or (2) Level 3, through other means, has a reasonable expectation that the customer is purchasing Level 3's service to incorporate them into the Wholesale customer's own offerings of telecommunications services, interconnected VoIP services that are terminated on the public switched telephone network, or non-interconnected VoIP services that are terminated on the public switched telephone network.

V. Identification of Enterprise Customers

Enterprise Customers are persons or entities that purchase voice interexchange service from Level 3 that are not identified as Mass-Dialer Customers or Wholesale customers.

APPENDIX B

	Month A			Month B		
	Calls Attempted	Calls Answered	% Calls Answered	Calls Attempted	Calls Answered	% Calls Answered
Intermediate Provider	x,xxx,xxx	y,yyy,yyy	zz.z%	x,xxx,xxx	y,yyy,yyy	zz.z%
Intermediate Provider A						
Non-rural	xx,xxx	yy,yyy	zz.z%	xx,xxx	yy,yyy	zz.z%
Rural	xx,xxx	yy,yyy	zz.z%	xx,xxx	yy,yyy	zz.z%
Intermediate Provider B						
Non-rural	xx,xxx	yy,yyy	zz.z%	xx,xxx	yy,yyy	zz.z%
Rural	xx,xxx	yy,yyy	zz.z%	xx,xxx	yy,yyy	zz.z%