



PUBLIC NOTICE

Federal Communications Commission
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PLEADING CYCLE ESTABLISHED FOR PETITION OF LEVEL 3 FOR FORBEARANCE FROM ASSESSMENT OF ACCESS CHARGES ON VOICE- EMBEDDED IP COMMUNICATIONS

WC Docket No. 03-266

COMMENTS DUE: March 1, 2004

REPLY COMMENTS DUE: March 31, 2004

On December 23, 2003, Level 3 Communications LLC (Level 3) filed a petition for forbearance pursuant to section 10 of the Communications Act of 1934, as amended (the Act), requesting the Commission to forbear from application of section 251(g) of the Act,¹ the exception clause of section 51.701(b)(1) of the Commission's rules,² and section 69.5(b) of the Commission's rules,³ to the extent those provisions could be interpreted to permit local exchange carrier (LECs) to impose interstate or intrastate access charges on Internet protocol (IP) traffic that originates or terminates on the public switched telephone network (PSTN), or on PSTN-PSTN traffic that is incidental thereto.⁴ Level 3 excludes from its forbearance request geographic service areas of incumbent LECs that currently are exempt from section 251(c) pursuant to section 251(f)(1)'s rural exemption.⁵ Level 3 argues that grant of this forbearance

¹ 47 U.S.C. § 251(g).

² 47 C.F.R. § 51.701(b).

³ 47 C.F.R. § 69.5(b).

⁴ Petition for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of 47 U.S.C. § 251(g), Rule 51.701(b)(1), and Rule 69.5(b) (filed Dec. 23, 2003) (Level 3 Petition). Level 3 includes in its definition of "incidental PSTN-PSTN traffic" traffic that ordinarily would be terminated on a customer's IP PBX, but which is forwarded to a customer's cell phone, as well as traffic that is "leaked" by an IP end user onto the PSTN, much like a leaky PBX. Level 3 does not include in its definition of "incidental PSTN-PSTN traffic" for which it seeks forbearance from application of access charges calls that originate and terminate in circuit-switched format on the PSTN with no net protocol conversion when the interconnected carrier is the customer's 1+ presubscribed interexchange carrier or a calling card/dial around provider selected by the calling party. Level 3 Petition at 7.

⁵ 47 U.S.C. §§ 251(c) and (f)(1); Level 3 Petition at 2.

request while the Commission completes its reform of intercarrier compensation will allow IP communications that embed voice applications (voice-embedded IP) to develop with the cleanest regulatory slate possible, and will result in needed regulatory certainty, increased investment, product and technology innovation, and increased deployment of advanced services.⁶ Upon grant of its petition, Level 3 asserts that voice-embedded IP-PSTN traffic would be exchanged between a LEC and a telecommunications carrier serving a voice-embedded IP service provider pursuant to section 251(b)(5) of the Act and Subpart H of Part 51 of the Commission's rules.⁷

Interested parties may file comments on or before **March 1, 2004**, and reply comments on or before **March 31, 2004**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.⁸

Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/cgb/ecfs/>. Generally, only one copy of an electronic submission must be filed.⁹ In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing.¹⁰

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail).

The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554.

⁶ Level 3 Petition at 2.

⁷ 47 U.S.C. §251(b)(5); 47 C.F.R. Part 51 Subpart H; Level 3 Petition at 2-3.

⁸ See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11,322 (1998).

⁹ If multiple docket or rulemaking numbers appear in the caption of a proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption.

¹⁰ If more than one docket or rulemaking number appear in the caption of a proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

Parties are strongly encouraged to file comments electronically using the Commission's Electronic Comment Filing System (ECFS). Parties are also requested to send a courtesy copy of their comments via email to jennifer.mckee@fcc.gov.

Two (2) copies of the comments and reply comments should also be sent to Chief, Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, SW, Room 5-A221, Washington, D.C. 20554. Parties shall also serve one copy with Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, D.C. 20554, (202) 863-2893, or via email to <qualexint@aol.com>.

Documents in WC Docket No. 03-266, including the Level 3 Petition, are available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th St. SW, Room CY-A257, Washington, DC 20554. The documents may also be purchased from Qualex International, telephone (202) 863-2893, facsimile (202) 863-2898.

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.¹¹ Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required.¹² Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules.¹³

For further information, contact Jennifer McKee of the Pricing Policy Division, Wireline Competition Bureau at (202) 418-1530.

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¹¹ See 47 C.F.R. §§ 1.1200, 1.1206.

¹² See 47 C.F.R. § 1.1206(b).

¹³ 47 C.F.R. § 1.1206(b).