

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

In the Matter of	)	
	)	
Level 3 Communications, LLC	)	WC Docket No. 09-153
	)	
Petition for Declaratory Ruling that Certain	)	
Right-of-Way Rents Imposed by the New York	)	
State Thruway Authority Are Preempted Under	)	
Section 253	)	

**ORDER**

**Adopted: September 18, 2009**

**Released: September 18, 2009**

**Revised Comment Date: October 15, 2009**

**Revised Reply Date: November 5, 2009**

By the Chief, Wireline Competition Bureau:

1. This Order grants a requested extension of time to file comments in the above-captioned proceeding. On July 23, 2009, Level 3 Communications, LLC (Level 3) filed a petition with the Commission, requesting the Commission to preempt pursuant to section 253 certain charges that the New York State Thruway Authority (NYSTA) levies on Level 3 for access to rights of way necessary to operate and connect to Level 3’s fiber-optic backbone network along the Thruway.<sup>1</sup> The Wireline Competition Bureau released a public notice seeking comment on the Level 3 Petition on August 25, 2009, and established September 24, 2009, and October 15, 2009, as the dates for filing comments and replies respectively.<sup>2</sup>

2. On September 3, 2009, NYSTA requested an extension of the dates for filing comments and replies to October 15, 2009, and November 5, 2009, respectively.<sup>3</sup> NYSTA states that the requested extension of time is necessary to allow adequate time for counsel to brief NYSTA’s governing Board concerning the proposed filing with the Commission.<sup>4</sup> In support of its request for an extension of time, NYSTA cites the “voluminous nature of the Level 3 Communications Petition, the complexity of the issues raised, and the fact that the petition relies on events that took place ten years ago.”<sup>5</sup> In addition,

<sup>1</sup> Level 3 Communications, LLC, Petition for Declaratory Ruling that Certain Right-of-Way Rents Imposed by the New York State Thruway Authority Are Preempted Under Section 253, WC Docket No. 09-153 at 1 (filed July 23, 2009) (Level 3 Petition).

<sup>2</sup> See *Wireline Competition Bureau Seeks Comment on Level 3 Communication’s Petition for Declaratory Ruling that Certain Right-of-Way Rents Imposed by the New York State Thruway Authority Are Preempted Under Section 253*, WC Docket No. 09-153, Public Notice, DA 09-1878 (WCB rel. Aug. 25, 2009) (*Level 3 Petition Public Notice*).

<sup>3</sup> NYSTA, Request for Extension of Time, WC Docket No. 09-153 (filed Sept. 3, 2009).

<sup>4</sup> *Id.* at 1.

<sup>5</sup> *Id.* at 1-2.

NYSTA represents that Level 3 does not object to the requested extension of time.<sup>6</sup>

3. In light of the factors cited by NYSTA and the absence of oppositions to NYSTA's request, the Wireline Competition Bureau hereby grants the requested extension of time for filing comments and replies concerning the Level 3 Petition. Accordingly, comments in this proceeding are to be filed on or before October 15, 2009 and reply comments are to be filed on or before November 5, 2009. All other filing requirements set forth in the Public Notice establishing the original pleading cycle remain in effect.<sup>7</sup>

4. Accordingly, IT IS ORDERED that, pursuant to sections 4(i), 4(j), and 5(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 155(c), section 1.46 of the Commission's rules, 47 C.F.R. § 1.46, and pursuant to the authority delegated in sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, comments in this proceeding shall be filed on or before October 15, 2009 and reply comments shall be filed on or before November 5, 2009.

5. IT IS FURTHER ORDERED that the Request for Extension of Time filed by NYSTA IS GRANTED, as set forth above.

FEDERAL COMMUNICATIONS COMMISSION

Sharon E. Gillett  
Chief  
Wireline Competition Bureau

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<sup>6</sup> *Id.* at 1.

<sup>7</sup> *See Level 3 Petition Public Notice* at 2-3.