

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

IN RE:)	
)	
LEVEL 3 COMMUNICATIONS, LLC'S)	
TARIFF FILING TO REVISE TRA)	Docket No. 07-00219
TARIFF NO. 3)	

LEVEL 3 COMMUNICATIONS, LLC'S REPLY TO THE RESPONSE OF AT&T

Level 3 Communications, LLC ("Level 3"), pursuant to Tenn. Comp. R. & Regs. 1220-1-2-.02(4), hereby submits its reply to the Response of AT&T to Level 3 Filings Regarding Proposed Tariff No. 3.

I. Procedural History

On September 12, 2007, Level 3 filed and the Tennessee Regulatory Authority ("Authority") received the proposed revisions to Level 3's T.R.A. Tariff No. 3 ("Tariff Amendment") inserting terms for Level 3's toll-free origination services in compliance with Tenn. Comp. R. & Regs. 1220-4-1-.06. On September 21, 2007, AT&T filed a Petition to Intervene and Request for Suspension. On October 1, 2007, Verizon filed a Complaint and Petition for Leave to Intervene. On October 22, 2007, Level 3 filed its Response to Motions to Intervene, which included a "white paper" explaining the applicability of Tariff No. 3 and addressing the concerns of AT&T and Verizon. On October 25, 2007, Level 3 filed a revised version of its changes to Tariff No. 3 in order to address all of the concerns raised by AT&T, Verizon and staff in this and other

jurisdictions. The proposed effective date of the Tariff Amendment was October 15, 2007.

II. Argument

Level 3 filed its proposed revisions to T.R.A. Tariff No. 3 over six weeks ago. Since that time, Level 3 has worked with AT&T on statewide and global basis to address AT&T's claims in Tennessee and other states that Tariff No. 3 is "vague and ambiguous." It is important to note that Level 3's proposed revised language for Tariff No. 3 was copied from an already effective tariff held by Level 3's affiliate Broadwing Communications, Inc - - tariff language that has been in effect (and unopposed by AT&T) in several states for several years.

Although Level 3 has worked with AT&T to resolve this issue, AT&T continues to file objections and delay the effective date of Level 3's tariff. The rules require Authority approval of tariff filings, yet AT&T is using the Authority's complaint process to forcing Level 3 to gain *AT&T approval* before it may effectuate its tariff. This is a slippery slope and one which is very concerning. Further, since Level 3 has already agreed to almost all of AT&T's proposals, continued opposition by AT&T can only be seen as an improper method of delaying the effectiveness of AT&T – to AT&T's financial advantage.

AT&T has not met the burden required to open a contested case proceeding (see Office of the Attorney General v. Tenn. Regulatory Authority, 2005 WL 3193684 (Tenn. Ct. App.)), much less than the burden required for suspension of a tariff (see T.C.A. §65-5-101(c)(3)) and should not be allowed to use the regulatory process to prevent the timely effectiveness of Level 3's tariff revisions. Although Level 3 has already revised Tariff

No. 3 to address all of the Intervenor's concerns and believes Tariff No. 3 should be approved without further modification, in the spirit of cooperation, Level 3 agrees to accept the following proposed edits by AT&T:

- *Section 1* – Addition of definition for “End User”;
- *Section 1* - Proposed modification to definition of “Switched Access Service”;
- *Section 13.3.2* – Proposed insertion of the language: “when the Company provides common line service with other Switched Access Services”;
- *Section 13.3.2(D)* – Proposed insertion of the language: “associated with calls placed to 700, Toll Free 8YY and 900 numbers for which the Customer furnished service”;
- *Section 13.3.2(D)* – Proposed deletion of the paragraph:

plus all originating access minutes of use associated with calls placed to 700, Toll Free 8YY and 900 numbers for which the Customer furnishes for each month a report of either the number of calls or minutes or a report of the percent of calls or minutes that term mate in a Switched Access Service that is assessed Carrier Common Line charges, and for which a corresponding reduction in the number of terminating access minutes of use has been made as set forth in (C) preceding, except for toll free traffic utilizing the Toll Free Inter-Exchange Delivery Service in Section 14.2.8(B).
- *Section 14.2.3.1* – Proposed insertion of the sentences: “Customer may select either Direct Connect or Tandem Connect. If no selection is made, the Company shall use the Tandem Connect as the default method of traffic delivery.”
- *Section 14.2.3.2* – Proposed insertion of the language: “As a Customer selected option”;
- *Section 14.2.3.3* – Proposed modifications of Section 14.2.3.3.
- *Section 14.2.8(A)* – Proposed deletion of the sentence: “Originating access charges may also apply for toll free calls originated by end user customers of a Customer of the Company.”;

- *Section 14.2.8(C)* – Proposed insertion of the language: “, otherwise no payphone compensation charge will be assessed by the Company to the IXC.”;
- *Section 15.1.1.1* – Proposed insertion of the sentence: “The Switched Transport usage rate does not apply in the Direct Connect application.”

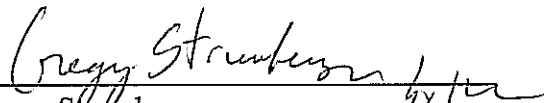
V. Conclusion

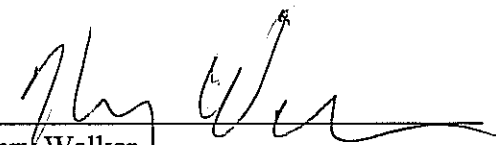
Level 3 respectfully requests that the Authority dismiss the Complaint filed by Verizon; deny the Petitions to Intervene filed by Verizon and AT&T and Request for Suspension of AT&T; revoke the suspension of the proposed Tariff Amendment; and decline to convene a contested case. Further, Level 3 requests that its proposed revisions to Tariff No. 3 become effective immediately.

DATED: November 2, 2007.

Respectfully submitted,

LEVEL 3 COMMUNICATIONS, LLC;

By: 
 Gregg Strumberger
 Level 3 Communications, LLC
 1025 Eldorado Boulevard
 Broomfield, CO 80021
 Tel: (720) 888-1780
 Fax: (720) 888-5134

By: 
 Henry Walker
 Boulton Cummings Connors & Berry, PLC
 1600 Division Street, Ste. 700
 Nashville, TN 37203
 Tel: (615) 252-2363
 Fax: (615) 252-6363

Certificate of Service

I hereby certify that a true and correct copy of the foregoing has been served on this 2nd day of November, 2007 via electronic transmission to the following:

Melvin J. Malone, Esq.
Miller & Martin, PLLC
150 Fourth Avenue, North
1200 One Nashville Place
Nashville, Tennessee 37219
(615) 244-9270
Email: mmalone@millermartin.com

Guy M. Hicks, Esq.
Joelle J. Phillips, Esq.
AT&T Communications of the South
Central States, LLC
333 Commerce Street, Suite 2101
Nashville, Tennessee 37201
Email: guy.hicks@bellsouth.com
joelle.phillips@bellsouth.com



Henry Walker