

**THE STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION**

DT 11-052

**Level 3 Communications, LLC
Revisions to NHPUC Tariff No. 1**

**AT&T'S PETITION FOR INTERVENTION
AND FOR AN ORDER TO INVESTIGATE TARIFF**

AT&T Corp. ("AT&T") respectfully petitions for leave to intervene as a party to this proceeding pursuant to New Hampshire R.S.A. 541-A:32 and Section 203.17 of the Rules of Practice and Procedure of the New Hampshire Public Utilities Commission ("Commission"). In addition, pursuant to New Hampshire R.S.A. 378.6, AT&T respectfully requests that the Commission suspend the tariff filed by Level 3 Communications, LLC ("Level 3"), pending the completion of a Commission investigation of whether the tariff revisions are just and reasonable, and otherwise in the public interest.

Level 3's tariff proposal, which was filed on March 17, 2011, with an effective date of April 16, 2011, improperly expands the definition of the term "end office" in such a way that would permit Level 3 to impose end office switched access rates when the equipment or services provided by Level 3 would be dramatically different from traditional local exchange carrier ("LEC") end office switching. For this reason, the Commission should investigate this proposed change.

End office switching rates traditionally compensated incumbent and competitive LECs primarily for the substantial capital costs of switching facilities (and perhaps to some degree local loops), which deliver calls between an end user's premises and the trunk side of an end

office switch. Level 3's proposed tariff would define the term "end office" to include devices and functions that are unrelated to local loop and switch facilities:

SECTION 1 - DEFINITION OF TERMS

End Office: The term "end office" denotes the switching system office or serving wire center (or functionally equivalent or analogous facilities) where Customer station loops (or functionally equivalent or analogous facilities) are terminated or otherwise connected to the Company's facilities or services for purposes of interconnection to each other and/or to trunks.

Level 3 Communications, LLC, NHPUC Tariff No. 1, First Revised Page 6 (proposed).

The proposed tariff would essentially allow Level 3 to charge traditional end office switched access rates in situations in which it serves only as an intermediate carrier, providing no loops to end users or even local exchange switches. In this effect, the unduly expansive and vague definition of the mechanisms that would be deemed "end offices" is unjust, unreasonable, and improper.

Level 3 does not explain its intent in proposing this new definition. However, if Level 3 wants to consider IP gateways or other similar devices as "end office" switches and thereby impose end office access charges, such as those for local switching, for the use of such devices, it should first be required to provide more information about the types of devices it wishes to encompass in this definition, and their precise purposes.¹ It is simply unreasonable to leave it for Level 3 to interpret the vague terms "functionally equivalent" and "analogous facilities" in this context. It is counterintuitive that the introduction of a *tandem-office-based* service would

¹ AT&T understands that Level 3's filing is related to its plans to route traffic through several "super-tandems," one of which is located in McLean, Virginia, and none of which are located in New Hampshire. This proposal may call into question this Commission's jurisdiction to approve a service (and its related pricing) that is not even performed in New Hampshire. It also may call into question the jurisdictional nature of the calls proposed to be routed in this manner and could conflict with the Commission's prior conclusion that the physical location of the calling and called party is the deciding factor in the jurisdiction of the call for traffic routing and inter-carrier compensation purposes.

involve the re-definition of “end office.” The Commission should further consider whether the rates Level 3 would bill for such services are just and reasonable under the circumstances.

Level 3's proposal is inconsistent with accepted industry practice. For example, here is how incumbent LEC Northern New England Telephone Operations LLC d/b/a FairPoint Communications – NNE defines the term “End Office Switch” in its Access Service Tariff:

End Office Switch - A local Telephone Company switching system where telephone exchange service customer station loops are terminated for purposes of interconnection to trunks. Included are remote switching modules and remote switching systems served by a host office in a different wire center.

FairPoint Communications – NNE (superseding Verizon New England Inc. NHPUC No. 85), Section 1, Page 8 Original.

Similarly, AT&T defines the term “End Office” as follows:

The term “End Office” denotes a Company switching system where Local Exchange Service customer station loops (including dedicated digital links from a DLS End User) are terminated for purposes of interconnection to each other and to trunks.

AT&T Corp. New Hampshire Service Guide, Access Services and Network Interconnection Services Terms and Conditions, Section 2, Page 47.

Both of these definitions are straightforward and reflect accepted industry practice.²

Level 3's proposed new definition meets neither criterion. It has the potential for increasing the costs of interexchange carriers with no corresponding benefits by charging for functionality not actually provided by Level 3.

AT&T should be permitted to intervene in this case inasmuch as its interests as a provider of a wide variety of telecommunications services differ from those of the general public. AT&T and its affiliates that provide interexchange services pay Level 3 both originating and terminating intrastate switched access rates on intrastate interexchange calls placed by AT&T customers.

² Indeed, Level 3's current tariff is comparable and defines “End Office” as follows: “The term ‘End Office’ denotes the switching system or serving wire center where Customer station loops are terminated for purposes of interconnection to each other and/or to trunks.” Level 3 Communications, LLC, NHPUC Tariff No. 1, Original Page 6.

AT&T has a substantial financial interest in ensuring that Level 3's intrastate switched access rates are just, reasonable, lawful, and appropriate, and AT&T's rights, duties and privileges may be affected by the outcome of this proceeding. In addition, no other party to this proceeding will adequately protect AT&T's interests.

Granting intervention will also be in the public interest because AT&T will bring to this proceeding its experience providing telecommunications services and analyzing tariffs, which should assist the Commission in its review of Level 3's proposal.

All correspondence, pleadings, orders, decisions and communications in this matter should be sent to:

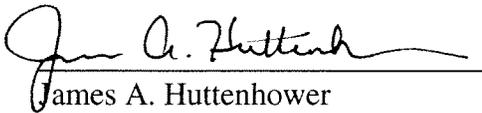
James A. Huttenhower
AT&T Legal Department
225 W. Randolph Street – Suite 25-D
Chicago, IL 60606
Tel.: (312) 727-1444
jh7452@att.com

WHEREFORE AT&T respectfully requests the Commission grant AT&T authority to intervene in this matter and issue an order suspending Level 3's proposed tariff filing pending completion of a Commission investigation of whether the tariff revisions are just and reasonable and otherwise in the public interest.

Dated: April 8, 2011

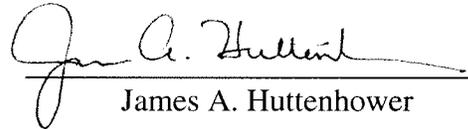
Respectfully submitted,

AT&T Corp.


James A. Huttenhower
AT&T Legal Department
225 W. Randolph Street – Suite 25-D
Chicago, IL 60606
Tel.: (312) 727-1444
Fax: (312) 727-1225
jh7452@att.com

CERTIFICATE OF SERVICE

I, James A. Huttenhower, an attorney, certify that a copy of the foregoing **AT&T'S PETITION FOR INTERVENTION AND FOR AN ORDER TO INVESTIGATE TARIFF** was served on the following parties by U.S. Mail and/or electronic transmission on April 8, 2011.


James A. Huttenhower

SERVICE LIST FOR NHPUC DOCKET 11-052

Michael P. Donahue
Helein & Marashlian LLC
The Commlaw Group
1420 Spring Hill Rd Suite 205
McLean VA 22102

Meredith A. Hatfield
Office of Consumer Advocate
21 South Fruit Street, Suite 18
Concord NH 03301