

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Neutral Tandem, Inc. and Neutral Tandem-Florida, LLC for resolution of interconnection dispute with Level 3 Communications, LLC, and request for expedited resolution.

DOCKET NO. 070408-TP
ORDER NO. PSC-07-0915-PCO-TP
ISSUED: November 13, 2007

ORDER GRANTING MOTION FOR LEAVE TO FILE SUPPLEMENTAL EXHIBIT F AND UNOPPOSED MOTION TO EXPAND PAGE LIMIT FOR SUPPLEMENTAL BRIEFS TO SEVEN PAGES

I. Case Background

On July 11, 2007, Neutral Tandem, Inc. (Neutral Tandem) filed its Second Petition for Interconnection with Level 3 Communications, LLC (Level 3) and Request for Expedited Resolution and/or Interim Relief (Second Petition).¹ On July 25, 2007, Level 3 filed its Response and Motion to Dismiss Neutral Tandem's Second Petition.

Pursuant to Order No. PSC-07-0772-PCO-TP, issued September 21, 2007, the parties were allowed to file supplemental briefs of no longer than five (5) pages by October 5, 2007. The parties each filed a supplemental brief on that due date

II. Level 3's Unopposed Motion to Expand Page Limit for Supplemental Briefs

On October 4, 2007, Level 3 filed its Unopposed Motion to Expand Page Limit for Supplemental Briefs to Seven Pages (Unopposed Motion). In its Unopposed Motion, Level 3 asserted it needed an additional two pages to help ensure that the parties had the opportunity to adequately and succinctly address the pending legal issues in this proceeding. On the same day Level 3's Unopposed Motion was filed, Commission staff counsel notified the parties of my decision to grant it.

III. Level 3's Motion for Leave to File Supplemental Exhibit F

On October 15, 2007, Level 3 filed its Motion for Leave to File Supplemental Exhibit F to Supplemental Legal Brief (Motion for Leave). In its Motion for Leave, Level 3 identifies Exhibit F as a letter dated October 12, 2007, filed by Neutral Tandem with the Public Utilities Commission of Ohio in a proceeding involving carrier-to-carrier rules.

¹ By Order No. PSC-07-0698-FOF-TP, issued August 27, 2007, this Commission acknowledged, without prejudice, Neutral Tandem's Voluntary Dismissal of its First Petition for Interconnection with Level 3 Communications in Docket No. 070127-TX (Voluntary Dismissal Order). Pursuant to the Voluntary Dismissal Order, the hearing record from Docket No. 070127-TX was merged into Docket 070408-TP because the same issues were raised in both dockets.

DOCUMENT NUMBER-DATE

10248 NOV 13 07

FPSC-COMMISSION CLERK

On October 16, 2007, Neutral Tandem filed its Response in Opposition to Level 3's Notice of Supplemental Filing. In its Response, Neutral Tandem asserts that contrary to Level 3's assertions in its Motion for Leave, the statements referenced therein are not relevant to the jurisdictional and standing issues currently pending before this Commission. Neutral Tandem argues further that the additional two pages of argument included in Level 3's Motion for Leave serve to extend Level 3's Supplemental Brief, for all practical purposes, to approximately 9 pages. Accordingly, Neutral Tandem states that it does not object to the submission of Supplemental Exhibit F, but does object to any supplementation of Level 3's Supplemental Brief.

IV. Rulings

Upon consideration of the parties' arguments, I find it reasonable and appropriate to grant Level 3's Unopposed Motion to Expand Page Limit for Supplemental Briefs to Seven Pages and its Motion for Leave to File Supplemental Exhibit F to Supplemental Legal Brief.

However, I do find merit in Neutral Tandem's objection to the arguments raised in Level 3's Motion for Leave. Whether intentional or not, the arguments raised in Level 3's Motion for Leave do appear to supplement Level 3's Supplemental Brief, contrary to the page limitation applied to the parties' Supplemental Briefs. Accordingly, I find that Level 3's Exhibit F speaks for itself, and therefore, strike the arguments raised in Level 3's Motion for Leave.

It is, therefore

ORDERED by Commissioner Katrina J. McMurrian, as Prehearing Officer, that Level 3 Communications, LLC's Unopposed Motion to Expand Page Limit for Supplemental Briefs to Seven Pages is granted. It is further

ORDERED that Level 3 Communications, LLC's Motion for Leave to File Supplemental Exhibit F to Supplemental Legal Brief is granted. It is further


ORDERED that the arguments set forth in Level 3 Communications, LLC's Motion for Leave to File Supplemental Exhibit F to Supplemental Legal Brief shall be stricken as set forth in the body of this Order.

ORDER NO. PSC-07-0915-PC0-TP

DOCKET NO. 070408-TP

PAGE 3

By ORDER of Commissioner Katrina J. McMurrian, as Prehearing Officer, this 13th day of
November, 2007.


KATRINA J. McMURRIAN
Commissioner and Prehearing Officer

(SEAL)

AJT

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.