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ORIGINAL

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November 1, 2000

**HAND DELIVERY**

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RECORDS AND REPORTING

Ms. Blanca S. Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Betty Easley Conference Center, Room 110  
Tallahassee, Florida 32399-0850

Re: Docket No. 000907-TP

Dear Ms. Bayo:

Enclosed herewith for filing in the above-referenced docket on behalf of Level 3 Communications, LLC ("Level 3") are the following documents:

1. Original and fifteen copies of the Prefiled Rebuttal Testimony of Gregory L. Rogers; *14157-00*
2. Original and fifteen copies of the Prefiled Rebuttal Testimony of Anthony Sachetti; *14158-00*
3. Original and fifteen copies of the Prefiled Rebuttal Testimony and Exhibits TJG-8 through TJG-9 of Timothy J. Gates; *14159-00*
4. Original and fifteen copies of the Prehearing Statement and in disk in Word Perfect 6.0 containing a copy of the Prehearing Statement; and *14160-00*
5. Original and one copy of the Notice of Service of Attachment 1 to Level 3's First Set of Interrogatories to BellSouth Telecommunications, Inc. *14161-00*

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the copy to me. Copies of the above-referenced testimony have been provided to Staff counsel and counsel for BellSouth Telecommunications, Inc. in accordance with the attached Certificate of Service.

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*Henry (Appearance)*

RUTLEDGE, ECENIA, PURNELL & HOFFMAN

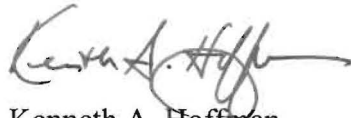
Blanca S. Bayo, Director

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Thank you for your assistance with this filing.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth A. Hoffman". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Kenneth A. Hoffman

KAH/rl

Enclosures

cc: Parties of Record

Blanca S. Bayo, Director  
Page 3  
November 1, 2000

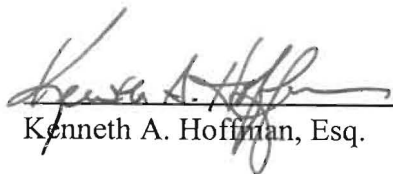
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing was furnished by hand delivery(\*) and United States Mail to the following this 1<sup>st</sup> day of November, 2000:

T. Michael Twomey, Esq.  
BellSouth Telecommunications, Inc.  
675 West Peachtree Street, N.E.  
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\_\_\_\_\_  
Kenneth A. Hoffman, Esq.

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Petition of Level 3 Communications,	)	
LLC for arbitration of certain terms and	)	Docket No. 000907-TP
conditions of proposed agreement with	)	
BellSouth Telecommunications, Inc.	)	Filed November 1, 2000
_____	)	

**PREHEARING STATEMENT OF  
LEVEL 3 COMMUNICATIONS, LLC**

Level 3 Communications, LLC ("Level 3"), by and through its undersigned counsel, and pursuant to the requirements of Order No. PSC-00-11646-PCO-TP issued September 15, 2000 ("Order Establishing Procedure"), hereby submits its Prehearing Statement in the above-referenced docket.

**A. APPEARANCES**

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(720) 888-5134 (Fax)

DOCUMENT NUMBER-DATE  
**14160 NOV-18**  
FPSC-RECORDS/REPORTING

**B. WITNESSES**

Level 3 intends to call the following witnesses to offer testimony on the issues in this docket.<sup>1</sup>

<b><u>Direct Witnesses</u></b>	<b><u>Issues</u></b>
Gregory L. Rogers <sup>2</sup>	1, 8
Anthony Sachetti <sup>3</sup>	1, 4, 5
Timothy J. Gates	2, 3, 6, 7

<b><u>Rebuttal Witnesses</u></b>	<b><u>Issues</u></b>
Gregory L. Rogers	1, 8
Anthony Sachetti	1, 4, 5
Timothy J. Gates	2, 3, 6, 7

Level 3 reserves the right to call additional witnesses, witnesses to respond to issues or matters raised by BellSouth for the first time in its rebuttal testimony, witnesses to respond to Commission inquiries not addressed in direct or rebuttal testimony, and witnesses to address issues not presently designated that may be designated by the Prehearing Officer at the Prehearing Conference to be held on November 8, 2000.

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<sup>1</sup>As noted below, Level 3 believes Issues 4, 5, and 8 to have been settled between the Parties. However, because Level 3 has not received formal confirmation from BellSouth as to the resolution of these issues, Level 3 has identified those issues here out of an abundance of caution.

<sup>2</sup>In his Prefiled Rebuttal Testimony, Gregory L. Rogers adopted the Prefiled Direct Testimony submitted by William P. Hunt, III on October 5, 2000.

<sup>3</sup>In his Prefiled Rebuttal Testimony, Anthony Sachetti adopted the Prefiled Direct Testimony submitted by Kevin Paul on October 5, 2000.

**C. EXHIBITS**

Level 3 intends to offer the following exhibits:

<b><u>Witness</u></b>	<b><u>Exhibits</u></b>	<b><u>Description</u></b>
Timothy J. Gates	TJG-1 (Direct)	Diagram 1
	TJG-1A (Direct)	Work Experience
	TJG-2 (Direct)	Diagram 2
	TJG-3 (Direct)	Diagram 3
	TJG-4 (Direct)	Diagram 4
	TJG-5 (Direct)	Diagram 5
	TJG-6 (Direct)	Diagram 6
	TJG-7 (Direct)	Diagram 7
	TJG-8 (Rebuttal)	Diagram 5.1
	TJG-9 (Rebuttal)	Diagram 5.2

Level 3 reserves the right to use demonstrative exhibits and to introduce exhibits for cross-examination, impeachment, rebuttal or any other purpose authorized by the applicable Florida Rules of Evidence and the rules of this Commission.

**D. STATEMENT OF BASIC POSITION**

On or about February 14, 2000, BellSouth Telecommunications, Inc. ("BellSouth") and Level 3, initiated negotiations for an interconnection agreement to replace the contract between BellSouth and MCI that Level 3 adopted pursuant to Section 252(i) of the Act. Since the filing of Level 3's Petition for Arbitration on July 21, 2000, BellSouth and Level 3 have continued to negotiate the rates, terms and conditions for a new interconnection agreement. The parties remain in negotiations.

Absent resolution of the open issues remaining between BellSouth and Level 3, Level 3 requests that the Commission approve its positions and proposed language for the issues which remain in dispute between the two parties.

#### **E. LEVEL 3'S POSITIONS ON ISSUES OF LAW AND FACT**

**Issue A:      What is the Commission's jurisdiction in this matter?**

**Level 3:**      The Commission has jurisdiction to arbitrate the issues identified in Level 3's Petition for Arbitration, as clarified by the Order Establishing Procedure, pursuant to Section 252 of the Act and Section 364.01 Florida Statutes.

**Issue 1:      How should the parties designate the Interconnection Points (IPs) for their networks?**

**Level 3:**      Upon initial market entry, the parties should establish a single IP for both parties' originating traffic. The Act and FCC orders implementing the Act give Level 3 the right to select a single, technically feasible IP per LATA for the exchange of traffic with BellSouth. BellSouth bears the burden of showing that a single IP is not technically feasible and the Commission may not consider economic issues in determining whether a single IP is technically feasible. Under the FCC's "rules of the road," each party is responsible for delivering its originating traffic to the IP. If BellSouth claims that a single IP per LATA is "expensive," BellSouth bears the burden of proving its costs are not recovered by the rates it charges its end users.

Level 3 is willing to establish additional IPs when traffic volumes, network architecture, and demands on an existing IP indicate additional IPs are needed. However, the contract must specify standards for additional IPs to prevent BellSouth from imposing inefficient and uneconomic IPs on Level 3. BellSouth should only be able to designate an additional IP in a LATA at a BellSouth access tandem if traffic originating from and/or terminating to customers in the tandem serving area (the access tandem and all subtending end offices) meets or exceeds an OC-12 level. Alternatively, BellSouth may designate additional IPs for its originating traffic wherever Level 3 has a point of presence.

**Issue 2:      Under what circumstances is Level 3 entitled to symmetrical compensation for leased facility interconnection?**

Level 3: Level 3 is entitled to symmetrical compensation for leased facility interconnection (“LFI”) for traffic carried over the same route. BellSouth's use of the definition of serving wire center for determining LFI compensation is discriminatory and would require Level 3 to pay more than BellSouth would pay for traffic carried over the same route. BellSouth’s definitions and rate structure discriminate against Level 3's single switch architecture and require Level 3 to deploy multiple switches in a LATA in order to receive symmetrical compensation. Consistent with the federal policy of permitting new entrants the flexibility to design efficient networks, the compensation for leased facilities used for interconnection should be symmetrical regardless of the differences in the parties’ network architectures.

**Issue 3: Should each party be required to pay for the use of interconnection trunks on the other party’s network? If so, what rates should apply?**

Level 3: No. BellSouth should be required to pay for trunks and facilities to carry BellSouth's originated traffic to the Level 3 network. The FCC has confirmed that each local exchange company bears the responsibility of operating and maintaining the facilities used to transport and deliver traffic on its side of the IP. It is inappropriate to impose any charges for local interconnection on Level 3 for BellSouth interconnection trunks and facilities terminating at Level 3's network which provide mutual benefits for both parties through the exchange of traffic. Level 3 should be similarly responsible for local interconnection trunks and facilities for its originating traffic up to its IP with BellSouth's network. If, contrary to Level 3's recommendation and the FCC’s “rules of the road,” the Commission determines that charges for trunks and facilities are appropriate, BellSouth should be required to prove, in a proceeding open to all ALECs, that its rates comply with the forward-looking pricing requirements of Section 252(d) and the rates in the contract should be interim and subject to true-up upon conclusion of the rate proceeding.

**Issue 4: When should each party be required to provide notice of errors on an Access Service Request (ASR)?**

Level 3: The parties have resolved this issue.<sup>4</sup>

**Issue 5: For purposes of the interconnection agreement between Level 3 and BellSouth, what provisioning intervals, if any, should apply to the**

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<sup>4</sup>Although Level 3 believes that the parties have settled this issue, if BellSouth disagrees and sets forth its position in its Prehearing Statement, Level 3 reserves the right to respond.



**following: (a) new trunk groups; (b) augmentation orders of greater than 96 trunks; (c) augmentation orders of 96 trunks or less; and (d) trunks to relieve blocking situations.**

Level 3: The parties have resolved this issue.<sup>5</sup>

**Issue 6: For purposes of the interconnection agreement between Level 3 and BellSouth, should ISP-bound traffic be treated as local traffic for the purposes of reciprocal compensation, or should it be otherwise compensated?**

Level 3: This Commission repeatedly has found ISP-bound calls are to be treated as local calls and there is no reasonable method or reason to distinguish those calls from other local calls. Consistent with public policy, economic objectives, this Commission's decisions in prior cases, and the decision of the D.C. Circuit Court of Appeals reversing and remanding portions of the FCC's Declaratory Ruling on this subject, BellSouth should pay Level 3 reciprocal compensation for calls to those customers who happen to be ISPs — at the same rates utilized for all other local traffic.

**Issue 7A: Should BellSouth be permitted to define its obligations to pay reciprocal compensation to Level 3 based on the physical location of Level 3's customers?**

Level 3: No. Consistent with BellSouth's long-standing and Commission approved foreign exchange service, calls originated by a BellSouth customer to a Level 3 NPA/NXX within BellSouth's local calling area are rated by comparing the originating and terminating NXX's and should be subject to reciprocal compensation. The calls are routed the same way regardless of where Level 3's customers are located and BellSouth has proposed no means to track and distinguish such calls from calls where the customer is physically located within the local calling area.

**Issue 7B: Is BellSouth entitled to charge originating access on all calls to a particular Level 3 NPA/NXX when one or more numbers out of that NPA/NXX are assigned outside the boundaries of the BellSouth rate center or local calling area to which they are traditionally assigned?**

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<sup>5</sup>Although Level 3 believes that the parties have settled this issue, if BellSouth disagrees and sets forth its position in its Prehearing Statement, Level 3 reserves the right to respond.

Level 3: No. Consistent with BellSouth's long-standing and Commission approved foreign exchange service, calls originated by a BellSouth customer to a Level 3 NPA/NXX within BellSouth's local calling area are rated by comparing the originating and terminating NXX's and should be subject to reciprocal compensation. The calls are routed the same way regardless of where Level 3's customers are located and BellSouth has proposed no means to track and distinguish such calls from calls where the customer is physically located within the local calling area. Given that the routing is the same as any other local call and the costs to BellSouth will therefore not differ, BellSouth should not be allowed to charge Level 3 originating access for any call to an NXX code based upon the location of the customer with a telephone number in that NXX code.

**Issue 8**: **Should Internet Protocol (IP) Telephony be addressed in the new Level 3/BellSouth Interconnection Agreement? If so, how?**

Level 3: The parties have resolved this issue.<sup>6</sup>

#### **F. STIPULATIONS**

No issues have been stipulated to as this time. However, Level 3 anticipates that once the parties finalize contract language, they will be able to stipulate to the resolution of Issues 4, 5, and 8 at the prehearing conference.

#### **G. PENDING MOTIONS**

There are no motions pending at this time.

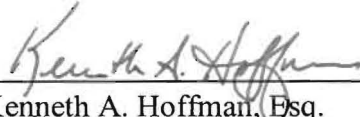
#### **H. OTHER REQUIREMENTS**

There is no requirement in the Order Establishing Procedure that cannot be complied with at this time by Level 3.

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<sup>6</sup>Although Level 3 believes that the parties have settled this issue, if BellSouth disagrees and sets forth its position in its Prehearing Statement, Level 3 reserves the right to respond.

Respectfully submitted,



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