

ORIGINAL

**BEFORE
THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition of Neutral Tandem, Inc. for)
Interconnection with Level 3)
Communications and Request for)
Expedited Resolution.)

Docket No. 070127-TX
Filed: March 23, 2007

NEUTRAL TANDEM INC.'S NOTICE OF SUPPLEMENTAL AUTHORITY

Neutral Tandem, Inc. ("Neutral Tandem") by and through its undersigned counsel, hereby files the following as supplemental authority:

1. A copy of the March 22, 2007 scheduling order issued by an Administrative Law Judge of the New York Public Service Commission, pursuant to which Neutral Tandem's request for interconnection with Level 3 in that state will be decided on the merits by May 16, 2007. (Ex. A.) This is provided in further support of Neutral Tandem's request for expedited consideration.

2. A copy of the Michigan Public Service Commission's March 21, 2007 Order denying Neutral Tandem's request for emergency relief in that state, without prejudice to seek relief should the parties be unable to reach a resolution prior to June 25, 2007. (Ex. B.) This is provided in further support both of Neutral Tandem's request for expedited consideration, and its request that Level 3 be required to maintain the parties' existing interconnections pending resolution of Neutral Tandem's petition for interconnection on the merits.

Respectfully submitted,

NEUTRAL TANDEM, INC.

By: 
Beth Keating, Esquire
Akerman Senterfitt
106 East College Avenue, Suite 1200
P.O. Box 1877 (32302)
Tallahassee, Florida 32301
(850) 521-8002
beth.keating@akerman.com

Attorney for Neutral Tandem, Inc

Ronald Gavillet
Executive Vice President &
General Counsel
Neutral Tandem, Inc.
One South Wacker, Suite 200
Chicago, IL 60606
(312) 384-8000
rongavillet@neutraltandem.com

John R. Harrington
Jenner & Block LLP
330 N. Wabash Ave.
Suite 4700
Chicago, IL 60611
(312) 222-9350
jharrington@jenner.com

Docket No. 070127-TX
March 23, 2007

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via Hand Delivery to Martin McDonnell, Esquire, and Kenneth Hoffman, Esquire, Rutledge, Ecenia, Purnell, and Hoffman, P.A., 215 South Monroe Street, Suite 420, Tallahassee, FL 32301, and that a copy has also been provided via Electronic Mail to the persons listed below this 23th day of March, 2007:

Gregg Strumberger, Esquire
Level 3 Communications, Inc.
1025 El Dorado Boulevard
Broomfield, CO 80021
Gregg.Strumberger@level3.com

Adam Teitzman, Staff Counsel
Florida Public Service Commission,
Office of the General Counsel
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850
ateitzma@psc.state.fl.us

Beth Salak, Director/Division of Competitive Markets and Enforcement
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850
bsalak@psc.state.fl.us

By: 

Beth Keating
Akerman Senterfitt
106 East College Avenue, Suite 1200
P.O. Box 1877 (32302)
Tallahassee, Florida 32301
(850) 521-8002
Fax: (850) 222-0103
beth.keating@akerman.com

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 07-C-0233 - Petition of Neutral Tandem - New York, LLC for
Interconnection with Level 3 Communications and
Request for Order Preventing Service Disruption.

PROCEDURAL RULING

(Issued March 22, 2007)

RAFAEL A. EPSTEIN, Administrative Law Judge:

This summarizes the results of a telephone conference with the parties on March 15, 2007 concerning the schedule for the remainder of the proceeding. On March 8, Level 3 Communications LLC had filed an initial answer opposing on procedural grounds a petition by Neutral Tandem - New York LLC. On March 13, staff of the Department of Public Service (participating in an advisory capacity) reported an apparent consensus that an administrative law judge should be assigned to establish a litigation process, in case no satisfactory conclusion can be reached through alternative dispute resolution methods. The March 15 conference was convened to resolve differences between litigation schedules proposed respectively by Neutral Tandem and Level 3.

Neutral Tandem's petition concerns Level 3's stated intention to terminate the parties' traffic exchange agreement effective March 23, 2007, a date that Level 3 has subsequently extended to June 25, 2007 to allow additional time for this proceeding. At the conclusion of discussions to clarify the necessary procedural steps and the amount of time needed by the parties at each step, the parties and I agreed to a schedule which appears fair and reasonable and is adopted as follows:

March 23	Level 3's supplemental, substantive answer, and motion to dismiss
March 30	Neutral Tandem's reply
April 12	Evidentiary hearing and/or oral argument

EXHIBIT A

On each of the two filing deadlines above, the parties should e-mail their pleadings to each other and me by 5:00 p.m.; and deposit, in First Class mail or courier, one copy to each party and me and an original and five copies to the Secretary.

The hearing will be held in Albany and will be the subject of a separate notice. The purpose of the hearing is to receive into evidence and examine all the parties' filings up to that date, except to the extent that my ruling on Level 3's dismissal motion may limit the scope of material evidence. Should the ruling obviate an evidentiary hearing, the April 12 hearing nevertheless may proceed for the purpose of oral argument.

The above schedule incorporates the following assumptions or understandings as well. Negotiations may be productive at any stage, and therefore should continue whenever the parties find it useful without my prescribing a specific cut-off date. However, the litigation schedule will not be adjusted to accommodate negotiations or to await an imminent agreement, absent a strong showing that the adjustment is consistent with the Commission's interest in reaching a timely decision.

Discovery likewise may proceed without a prescribed cut-off date, provided that the scope and timing of discovery and responses are reasonable in view of the parties' deadlines under the established litigation schedule.

As a courtesy to potential witnesses, and sufficiently in advance of the April 12 hearing date to avoid inconveniencing them, the parties should confer with each other, DPS staff, and me as to whether witnesses must attend personally or may instead present evidence by affidavit.

At the close of the hearing, a schedule will be set for post-hearing briefs. Depending on the nature of the issues and counsel's preferences, there may be only one round of briefs; or parties may be directed to file comprehensive briefs that anticipate their opponents' arguments, so as to minimize the scope of reply briefs. The briefing stage is expected to end no later than April 18, 2007.

CASE 07-C-0233

(SIGNED)

RAFAEL A. EPSTEIN

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the complaint and request for)
emergency relief of NEUTRAL TANDEM, INC.,)
against LEVEL 3 COMMUNICATIONS, LLC.)
_____)

Case No. U-15230

At the March 21, 2007 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. J. Peter Lark, Chairman
Hon. Laura Chappelle, Commissioner
Hon. Monica Martinez, Commissioner

ORDER DENYING EMERGENCY RELIEF

On March 1, 2007, Neutral Tandem, Inc., filed a complaint and request for emergency relief concerning interconnection issues with Level 3 Communications, LLC (Level 3), pursuant to the provisions of MCL 484.2203. In the complaint, Neutral Tandem requested the Commission to: (1) establish interconnection terms and conditions for the continued delivery by Neutral Tandem of tandem transit traffic to Level 3 and its subsidiaries and (2) issue an order for emergency relief directing Level 3 to avoid blocking traffic terminating from Neutral Tandem over the parties' existing interconnection until a final order is issued in this case.

Neutral Tandem states that it is a licensed basic local exchange service provider under the Michigan Telecommunications Act, MCL 484.2101 *et seq.*, (the Act) and for over two years has been interconnected with Level 3 pursuant to negotiated agreements. It alleges that Level 3 recently determined to terminate the contracts that enable Neutral Tandem to deliver tandem

EXHIBIT B

transit traffic to Level 3 because it was no longer satisfied with the terms of the interconnection agreement. Neutral Tandem alleges that Level 3 stated it would disconnect the parties' existing interconnection as of March 23, 2007. It asserts that such an action would be unlawful and would seriously disrupt telecommunications services for affected customers. It states that it has about 15 third party carriers that use its transit service and those carriers have millions of end users, all of whom would feel the effects of disconnecting the interconnection.

Neutral Tandem asserts that Level 3's actions or threatened actions violate Section 305(a) and (b) of the Act, MCL 484.2305(a) and (b). It asserts the Commission has authority to resolve these issues in this proceeding pursuant to MCL 484.2204, which provides that if two telecommunications carriers cannot agree on interconnection issues, or matters prohibited by Section 305, either carrier may petition the Commission for assistance in resolving the issues.

On March 7, 2007, Level 3 filed an answer to the request for emergency relief in which it states that Neutral Tandem's failure to make alternative arrangements for traffic it desires to deposit on Level 3's network has created a crisis for which Neutral Tandem now seeks emergency relief. It points out that Neutral Tandem admits the contracts have expired and that Level 3 has agreed to work with Neutral Tandem to provide a smooth transition for the affected traffic. Level 3 argues that Neutral Tandem has merely filed this complaint, rather than seek out alternatives for the traffic.

However, Level 3 states, it is willing to maintain the existing arrangements with Neutral Tandem until June 25, 2007 (94 days beyond the March 23, 2007 deadline). Therefore, it states, Neutral Tandem's emergency relief request is moot and need not be addressed. Level 3 further clarifies that its willingness to maintain the existing arrangements does not waive any of its claims or defenses related to the Commission's subject matter jurisdiction to adjudicate the complaint.

Level 3 reasons that the extension of time eliminates the sole basis for Neutral Tandem's application for emergency relief and requests the Commission to deny that relief. Finally, Level 3 requests that the Commission mediate an alternative means to resolve the complaint pursuant to MCL 484.2203a.

Pursuant to MCL 484.2203(3), the Commission may issue an order granting emergency relief if it finds all of the following: (a) that the party has demonstrated exigent circumstances that warrant emergency relief, (b) that the party seeking relief will likely succeed on the merits, (c) that the party will suffer irreparable harm in its ability to serve customers if emergency relief is not granted, and (d) that the order is not adverse to the public interest.

The Commission finds that Neutral Tandem's request for emergency relief should be denied without prejudice. It appears that there are no exigent circumstances at this time, based in part on Level 3's commitment to continue providing service to Neutral Tandem until June 5, 2007. Moreover, the Commission notes that MCL 484.2203(13) prohibits a provider from discontinuing service while a complaint is pending before the Commission, if the complainant has provided adequate security in an amount determined by the Commission. Should the parties be unable to resolve this complaint before the deadline established by Level 3's commitment, Neutral Tandem may seek protection under this section.

Having determined that there is no legitimate claim for emergency relief, the Commission finds that MCL 484.2203(14) should be invoked and the parties should be directed to engage in alternative dispute resolution as provided in MCL 484.2203a. The Commission Staff is available to the parties for assistance in obtaining mediation or other alternate dispute resolution services.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 *et seq.*; 1969 PA 306, as amended, MCL 24.201 *et seq.*; and the Commission's Rules of Practice and Procedure, as amended, 1999 AC, R 460.17101 *et seq.*
- b. The request for emergency relief should be denied without prejudice.
- c. The parties should engage in an alternative dispute resolution process.

THEREFORE, IT IS ORDERED that the request for emergency relief filed by Neutral Tandem, Inc., is denied without prejudice.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so by the filing of a claim of appeal in the Michigan Court of Appeals within 30 days of the issuance of this order, pursuant to MCL 484.2203(6).

MICHIGAN PUBLIC SERVICE COMMISSION

(S E A L)

/s/ J. Peter Lark

Chairman

/s/ Laura Chappelle

Commissioner

By its action of March 21, 2007.

/s/ Mary Jo Kunkle

Its Executive Secretary

/s/ Monica Martinez

Commissioner