



Via Electronic Submission

February 16, 2005

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20454

Re: Notice of Ex Parte – Level 3 Communications LLC Petition for
Forbearance Under 47 U.S.C. §160(c) from Enforcement of 47 U.S.C. § 251(g)
Rule 51.701(b)(1) and Rule 69.5(b), WC Docket No. 03-266

Dear Ms. Dortch:

I am writing to inform you that the ex parte notice filed by the United State Telecom Association dated February 9, 2005 in the above-captioned docket apparently failed to include my name as a participant in the meeting held with members of the Wireline Competition Bureau on February 8, 2005.

During the meeting I expressed concerns on behalf of midsize and small rural carriers that the so-called “rural exemption” contained within the Level 3 forbearance petition would do little, if anything, to insulate rural carriers from the negative impacts of this proposal. Specifically, the rural exemption is only a partial exemption since it excludes all rural carriers that no longer qualify for the statutory rural exemption set forth in 47 U.S.C. § 251(f)(1). Moreover, the language of the Level 3 forbearance petition appears to presume that even those carriers that would qualify for the exemption would apparently only be temporarily exempt.¹ The rural exemption in the Level 3 forbearance petition would also be unenforceable operationally since it contains no suggestion regarding how Level 3 would account for and pay for traffic it terminates on rural carriers’ networks.

Finally, the Level 3 petition fails to deal with or even acknowledge that portion of existing access charges for which they are requesting forbearance that may represent implicit universal service support. In previous relevant dockets such as the MAG

¹ The Level 3 petition requests that the Commission conduct a “case-by-case evaluation with respect to these exempt areas...” after granting the petition itself. Level 3 petition at 8.

Ms. Marlene H. Dortch
February 16, 2005
Page Two

proceeding, the Commission was careful to account for and recover through explicit mechanisms the implicit support it reduced there. The Level 3 petition essentially asks the Commission to ignore this important precedent and the statutory direction to make implicit support explicit .

In accordance with Section 1.1206(b)(2) of the Commission's rule, this letter is being filed electronically with your office.

Please feel free to contact me if you have any questions.

Sincerely,

/s/

David W. Zesiger
Executive Director