

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Docket No. 07-135
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Developing a Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Lifeline and Link-Up)	WC Docket No. 03-109
)	
Universal Service Reform – Mobility Fund)	WT Docket No. 10-208

**COMMENTS
of the
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION,
ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT OF SMALL
TELECOMMUNICATIONS COMPANIES,
WESTERN TELECOMMUNICATIONS ALLIANCE, and the
NATIONAL EXCHANGE CARRIER ASSOCIATION, Inc.
on
LEVEL 3 COMMUNICATIONS’
PETITION FOR LIMITED WAIVER OF THE COMMISSION’S
CALL SIGNALING RULES**

Level 3 Communications, LLC (“Level 3”) requests a limited waiver of the new call signaling rules, or clarifications, for three specific circumstances: (1) A waiver of the requirement to transmit the Charge Number (“CN”), when different than the Calling Party Number (“CPN”), for Session Initiation Protocol (“SIP”)-terminated calls; (2) clarification or

waiver that a CN can include a pseudo-North American Numbering Plan (“NANP”) number, a customer’s private numbering plan number, or a toll-free number as long as it is associated with the enterprise customer; and (3) a waiver of the requirement to populate the Automatic Number Identification (“ANI”) field with the CPN or CN for calls terminated to a local exchange carrier (“LEC”) over a multifrequency (“MF”) facility.¹ Level 3 states such waiver is necessary because it is technically infeasible for Level 3 to adhere to the new rules in these circumstances.²

The above-named Associations, representing rural rate-of-return regulated incumbent local exchange carriers (“RLECs”),³ do not oppose grant of a waiver to Level 3 that is limited to circumstances identified in its petition, provided Level 3 provides additional information regarding its use of pseudo-NANP numbers, a customer’s private numbering plan number, or a toll-free number to populate the CN, and provided that such waiver is subject to the same limitations and conditions as those the Associations recommended for prior waiver requests.⁴

¹ Petition for Limited Waiver of 47 C.F.R. § 64.1601(a), WC Docket No. 10-90, *et al.*, at 2 (filed Apr. 5, 2012) (*Petition*).

² *Id.* at 1.

³ The National Telecommunications Cooperative Association (NTCA) is a national trade association representing more than 580 rural RoR regulated telecommunications providers. The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) is a national trade association representing approximately 420 small ILECs serving rural areas of the United States. The Western Telecommunications Alliance (WTA) is a trade association that represents over 250 small rural telecommunications companies operating in the 24 states west of the Mississippi River. The National Exchange Carrier Association, Inc. (NECA) is responsible for preparation of interstate access tariffs and administration of related revenue pools, and collection of certain high-cost loop data. See generally, 47 C.F.R. §§ 69.600 et seq.; MTS and WATS Market Structure, CC Docket No. 78-72, Phase I, Third Report and Order, 93 FCC 2d 241(1983).

⁴ See, e.g., Comments of NECA, NTCA, OPASTCO, and WTA, WC Docket No. 10-90, *et al.*, at 5-7 (filed Feb. 9, 2012) (Comments on AT&T’s Petition); Comments of NECA, NTCA, OPASTCO, and WTA, WC Docket No. 10-90, *et al.*, at 6 (filed Feb. 29, 2012) (Comments on CenturyLink’s Petition); Comments of NTCA, OPASTCO, WTA, and NECA, WC Docket No. 10-90, *et al.*, at 5 (filed Apr. 9, 2012) (Comments on Hawaiian Telecom’s Petition); Comments of NTCA, OPASTCO, WTA, and NECA, WC Docket No. 10-90, *et al.*, at 6 (filed Mar. 19,

These limitations and conditions would include a requirement that companies obtaining waivers provide lists of the switch locations covered by such waivers, the provision to terminating carriers of information necessary to audit Percent Interstate Usage (“PIUs”) and/or call records, and to submit reports to the Commission at regular intervals detailing the status of the carrier’s efforts to upgrade its network to come into compliance with the rules.

I. INTRODUCTION

In its November 18, 2011 USF and ICC Transformation Order,⁵ the Commission amended its call signaling rules to require transmission of call signaling information on all traffic originating or terminating on the public switched telephone network (“PSTN”). In addition to rules requiring transmission of the CPN data on all calls, the Commission also imposed a requirement that the CN be passed unaltered where it is different from the CPN.⁶ The Order further makes clear that the CN field may only be used to contain a calling party’s charge number, and not contain or be populated with a number associated with an intermediate switch, platform, or gateway, or other number.⁷ The Commission also amended its rules to require service providers

2012) (Comments on Verizon’s Petition); Comments of NTCA, OPASTCO, WTA, and NECA, WC Docket No. 10-90, *et al.*, at 6-7 (filed May 4, 2012) (Comments on FairPoint’s Petition).

⁵ *Connect America Fund*, WC Docket No. 10-90, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, *High-Cost Universal Service Support*, WC Docket No. 05-337, *Developing an Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link-Up*, WC Docket No. 03-109, *Universal Service – Mobility Fund*, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (*USF and ICC Transformation Order* or *Order*).

⁶ *Id.* ¶ 714.

⁷ *Id.*

still using MF signaling to pass the number of the calling party (or CN, if different) in the MF ANI field.⁸

Level 3 requests waiver of the new call signaling rules, or clarifications, for three specific circumstances. In the first circumstance, Level 3 requests a waiver of the requirement to transmit CN, when different than CPN, for SIP-terminated calls. Level 3 claims that the SIP has no Internet Engineering Task Force (“IETF”) standard concept of a CN because the SIP header is used to identify only the CPN. Thus, it cannot transmit the CN to the subsequent carrier.⁹ Level 3 claims it needs a waiver of Section 64.1601(a)(2) to the extent that this rule would otherwise require Level 3 to deliver a CN that it has no way to deliver. Level 3 indicates “[t]his is only a problem with respect to TDM-originated traffic that terminates via a SIP interconnection.”¹⁰

Level 3 also requests clarification, or alternatively waiver, that a CN can include a pseudo-NANP number, a customer’s private numbering plan number, or a toll-free number as long as it is associated with the enterprise customer.¹¹ Level 3 explains in cases where its interexchange carrier (“IXC”) customers, such as a call center, are directly connected to its interexchange switch via a dedicated connection, the customer will have no originating telephone number.¹² In other cases, its enterprise customers may have multiple telephone numbers routed through a single private branch exchange (“PBX”) and Level 3 populates the CN field with a number that Level 3’s customer specifies. Level 3 indicates in some cases this is no problem under the rule because the customer will specify a number on which it can receive return calls and that number

⁸ *Id.* ¶ 716.

⁹ *Petition* at 3.

¹⁰ *Id.*

¹¹ *Id.* at 4.

¹² *Id.*

is likely to be in the same rate center as numbers associated with the calling party's station.¹³ In other cases, however, Level 3 indicates the inserted CN may be a pseudo-NANP number, a private numbering plan number or a toll-free number. Level 3 claims "[t]hese numbers are *never* 'numbers associated with an intermediate switch, platform or gateway,'" and the "purpose of these numbers is to allow traffic from these numbers to be properly jurisdictionalized and billed."¹⁴

Finally, Level 3 seeks a waiver of the requirement to populate the ANI field with the CPN or CN for calls terminated to a LEC over an MF facility, which it claims cannot be done with current industry standards and equipment.¹⁵ Level 3 claims it is not possible for it to modify equipment at this point to add CPN and CN to the MF single stage dialing sequence used for traffic terminating from the IXC to a LEC over an MF facility, and Level 3 cannot switch to SS7 signaling unless the LEC agrees to do so as well.¹⁶

II. DISCUSSION

The Commission declined to adopt a general technical infeasibility exception to its revised call signaling rules,¹⁷ indicating parties seeking limited exceptions or relief of the rules may avail themselves of the Commission's established waiver procedures.¹⁸ While the Commission has stated on many previous occasions that waivers under section 1.3 of the rules "will not be

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* at 5.

¹⁶ *Id.*

¹⁷ *Order* ¶ 723.

¹⁸ *See id.*

granted routinely,” it has frequently cited hardship, equity, and public policy considerations as reasons for granting requested waivers.¹⁹

Level 3 states it requires a waiver because “it is technically infeasible for Level 3 to adhere to the new rules in certain circumstances.”²⁰ The Associations do not object to grant of waivers of the new call signaling rules that are limited in scope to instances involving older generation technology that is neither SS7 nor Internet protocol (“IP”). Consistent with comments filed on recent, similar waiver petitions,²¹ the Associations suggest that any waiver granted by the Commission, including any waiver granted Level 3 in this instance, include requirements for the carrier to publish a list of switches covered by the waiver, to provide terminating carriers with information necessary to audit PIUs and/or call records, and to submit reports to the Commission at regular intervals detailing the status of the carrier’s efforts to upgrade its network to come into compliance with the rules.²²

¹⁹ Traditional standards for grant of Commission waivers were reviewed in *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular*, 897 F.2d at 1166. In the *Order*, however, the Commission announced without explanation that it will apply far more stringent standards to petitions for waiver of rules limiting high-cost support levels, despite extensive showings such rules will have unintended and unreasonable impacts on RLECs and rural consumers. *See, e.g.*, Petition for Reconsideration and Clarification of NECA, OPASTCO and WTA, WC Docket No. 10-90, *et al.*, at 19-22 (filed Dec. 29, 2011). It is critical the Commission apply uniform standards to parties seeking waivers of its rules. In the absence of a reasoned explanation for revising its standards, the Commission must continue to apply criteria previously developed under section 1.3 of its rules.

²⁰ *Petition* at 1.

²¹ *See supra* note 4.

²² As each carrier requesting a waiver should be able to identify where the limited, specified waiver is supposedly required, and therefore has apparently already identified the switches that are not capable of meeting the new rules, preparing a list of already identified switches should not be terribly burdensome. Moreover, the idea that a waiver proponent seeking special permission to send what would otherwise clearly be phantom traffic should bear no burden to ensure that the limits of that permission are well-defined and narrowly confined is highly problematic. It begs the question of what else might “leak through” if the waiver is granted. If the Commission is committed to solving the phantom traffic problem, it will: (a) make sure its

The Associations do not oppose grant of a waiver for calls terminating from Level 3's IXC to a LEC over MF facilities. However, the Associations suggest the Commission request additional information from Level 3 before granting a waiver for SIP-terminated calls. Specifically, while Level 3 claims the IETF standards have no concept of a CN, the Associations note IETF SIP standard RFC3261, coupled with the SIP for telephone ("SIP-T") standard RFC3372, appears to assure such information should in fact be available "in its entirety and without any loss to trusted parties in the SIP network across the PSTN-IP interface."²³

Likewise, additional information may be required for Level 3's requested clarification, or alternatively waiver, that a CN can include a pseudo-NANP number, a customer's private numbering plan number, or a toll-free number as long as it is associated with the enterprise customer. While Level 3 claims "[t]hese numbers are *never* 'numbers associated with an intermediate switch, platform or gateway,' and the purpose of these numbers is to allow traffic from these numbers to be properly jurisdictionalized and billed",²⁴ companies have been involved in billing disputes regarding the proper jurisdictionalization of such calls. Level 3 should confirm it provides the correct CPN in such instances, or if not, how such calls are to be properly jurisdictionalized and billed when the CN is not the actual customer's CN.

III. CONCLUSION

The Associations do not oppose grant of a waiver to Level 3 for calls terminating from Level 3's IXC to a LEC over MF facilities, or a waiver from the requirement to pass CN for SIP-

rules govern; and (b) make sure that where providers are granted a limited waiver of those rules, it is unmistakably clear to what that limited waiver applies.

²³ See <http://www.rfc-editor.org/rfc/pdf/rfc/rfc3372.txt.pdf>

²⁴ *Petition* at 4.

terminated calls provided the CPN is consistently passed. For calls from Level 3's enterprise customers, however, the Commission should first require additional clarifying information from Level 3 as discussed above before granting waivers. The Associations further suggest that any waiver include requirements for Level 3 to publish a list of switches covered by the waiver, provide terminating carriers with information necessary to audit PIUs and/or call records, and submit reports at regular intervals detailing the status of its efforts to upgrade its network to come into compliance.

Respectfully submitted,

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May 14, 2012

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Associations' Comments was served this 14th day of May, 2012, by electronic filing and e-mail to the persons listed below.

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