

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| LEVEL 3 COMMUNICATIONS, LLC'S FILING TO) | |
| INTRODUCE THIRD-PARTY TANDEM) | CASE NO. |
| CONNECT SERVICE AND REVISE ITS) | 2011-00146 |
| ACCESS SERVICE TARIFF) | |

O R D E R

On March 29, 2011, Level 3 Communications, LLC ("Level 3") filed a revision to its access services tariff that, among other things, revised the definition of "End Office." The proposed effective date of the tariff was April 28, 2011. The Commission Staff completed its review of the tariff, a copy of which is attached as the Appendix to this order, and processed the tariff on April 22, 2011.

On April 26, 2011, AT&T Communications of the South Central States, LLC, BellSouth Long Distance, Inc. d/b/a AT&T Long Distance Service, BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky ("AT&T Kentucky"), and TCG Ohio, (collectively "AT&T"), filed a motion for leave to intervene, to suspend, and to investigate the March 29, 2011 tariff filing of Level 3. As grounds for its motion, AT&T alleged that the proposed tariff filings:

[I]mproperly expand the definition of the term "End Office" in such a way that arguably permits Level 3 to impose end office switched access rates when the equipment or services provided by Level 3 would be dramatically different from traditional local exchange carrier ("LEC") end office switching.¹

¹ AT&T's Motion for Leave to Intervene, to Suspend and to Investigate Tariff, at 3.

AT&T objected to Level 3's proposal that the term "End Office" include devices and functions that are unrelated to local loop and switch facilities.² AT&T alleged that Level 3's definition of "End Office" was unjust, unreasonable, and improper because, if approved, Level 3 could be able to charge "traditional end office switched access rates in situations in which it serves only as an intermediate carrier, providing no loops to end users or even local exchange switches."³ AT&T asserted that Level 3 should provide information regarding the devices to be included in the definition of "End Office" and that "Commission should further consider whether the rates Level 3 would bill for such services are just and reasonable under the circumstances."⁴

AT&T also asserted that Level 3's proposed revisions of its "End Office" definition were inconsistent with standard industry practice. AT&T stated that AT&T Kentucky's definition of "End Office Switch" in its tariff and TCG Ohio's definition of "End Office" in its tariff were "straightforward and reflect accepted industry practice" and that Level 3's definition met neither criterion.⁵

AT&T asserted that it should be granted intervention because it pays both originating and terminating intrastate switched access rates on intrastate interexchange calls placed by AT&T customers. Therefore, AT&T argued it had a significant financial interest in ensuring that Level 3's intrastate access rates are reasonable, lawful, and appropriate.

² Id.

³ Id. at 4.

⁴ Id.

⁵ Id. at 5.

The Commission found that AT&T raised legitimate concerns regarding the possible interpretation and application of Level 3's definition of "End Office" that could lead to the charging of intrastate access charges for services that are traditionally not subject to those charges. On July 26, 2011, the Commission, by Order, initiated an investigation into Level 3's tariff and ordered Level 3 to respond to the concerns and allegations raised in AT&T's petition.

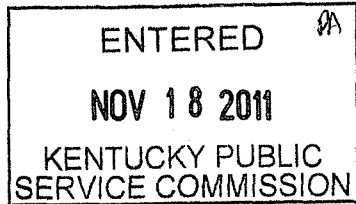
Level 3, on August 22, 2011, filed with the Commission a tariff amendment that restored the prior definition of "End Office." On September 28, 2011, AT&T filed its Notice of Withdrawal of Objection to Level 3's March 29, 2011 revision to the definition of "End Office." On October 3, 2011, Level 3 filed with the Commission a motion to close and remove the case from the Commission's docket. As grounds for its motion, Level 3 states that it and AT&T had reached an agreement by which Level 3 would file a tariff revision incorporating the pre-March 29, 2011 definition of "End Office" and AT&T, upon the filing of the revision, would withdraw its objection to the tariff. Level 3 states that, because AT&T's concerns have been addressed, there is no longer any need for the Commission to continue the case and that the case should be dismissed.

The Commission instituted its investigation because it found that AT&T's objections to the new definition of "End Office" were with merit. Because the tariff has been revised, the definition of "End Office" has reverted to its form as it existed prior to Level 3's March 29, 2011 revision, and AT&T has withdrawn its objection to Level 3's tariff, the Commission's concerns are allayed and the Commission finds that its investigation shall be dismissed.

Based upon the foregoing, IT IS THEREFORE ORDERED THAT:

1. Level 3's Motion to Close and Remove Case from docket is granted.
2. The Commission's investigation into Level 3's March 29, 2011 tariff revision is dismissed and removed from the Commission's docket.

By the Commission



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