

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

An Investigation into the Intrastate Switched
Access Rates of All Kentucky Incumbent and
Competitive Local Exchange Carriers

Adm. Case No. 2010-00398

**Joint Filing and Suggestions of
TWTC, Level 3, and PAETEC re FCC NPRM**

tw telecom of kentucky, llc (“TWTC”), Level 3 Communications, LLC (“Level 3”), US LEC of Tennessee L.L.C. d/b/a PAETEC Business Services (“PAETEC”), through their undersigned counsel, hereby jointly make a filing to the record and comment as follows:

1. TWTC and Level 3 were granted full intervention in this proceeding by Orders issued December 8, 2010; PAETEC, by Order issued February 2, 2011.
2. In Joint Public Comments filed in this proceeding on December 16, 2010 (p.2 ¶3), TWTC and Level 3 stated that they anticipated that the Federal Communications Commission (“FCC”) would issue a notice of proposed rulemaking (“NPRM”) in which the FCC would seek, *inter alia*, to address interstate and intrastate switched access, reciprocal compensation, and universal service in a holistic fashion.
3. On February 8, 2011, the FCC adopted the anticipated NPRM, in a “Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking.” FCC 11-13 (released 2/9/11), available at http://www.fcc.gov/Daily_Releases/Daily_Business/2011/db0209/FCC-11-13A1.pdf (last visited Feb. 17, 2011). TWTC, Level 3, and PAETEC file herewith a full copy of the NPRM, to make it part of the record of this proceeding and to alert all parties hereto to its release and contents.

4. As anticipated, the NPRM *inter alia* proposes immediate and comprehensive reforms relating to intercarrier compensation. See FCC 11-13 part II.B, pp. 15-18 (§§ 34-44).

The FCC seeks comments “on two possible overall approaches for working with states to reform intercarrier compensation.”

The first approach relies on the Commission and states to act within their existing roles in regulating intercarrier compensation, such that states would remain responsible for reforming intrastate access charges. Under a possible variation, states would remain responsible for reforming wireline intrastate charges, but we also seek comment on whether we should set a glide path to reform wireless termination charges, possibly including intrastate access charges paid by or to wireless providers.

The second approach relies on the Commission using the tools provided by sections 251 and 252 in the 1996 Act to unify all intercarrier rates, including those for intrastate calls, under the reciprocal compensation framework. Under this framework, the Commission would establish a methodology, which states would then work with the Commission to implement.

FCC 11-13 p.17 (§42). Comments on these approaches and other NPRM proposals and issues are due within 45 days of publication of the NPRM (or a summary thereof) in the Federal Register. *Id.* p.1.

5. TWTC, Level 3, and PAETEC respectfully encourage the Kentucky Public Service Commission to participate in the comment process provided by the NPRM, especially as to the federal/state roles in the proposed reform of intercarrier compensation. Whatever the approach selected by the FCC for its partnership with the states in reforming intercarrier compensation, the immediate and comprehensive reforms proposed in the NPRM may moot this investigation or fundamentally alter its framework. Given the quick turn-around on the comments cycle and the FCC Chairman’s resolve to make decisions in the NPRM by year’s end, these three parties also respectfully continue to suggest that this Commission take no action (or formally hold this proceeding in abeyance) until the FCC has decided on an approach.

Respectfully submitted by their attorney of
record on behalf of TWTC, Level 3, and
PAETEC:

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