



FILED

07-25-11
04:59 PM

EXHIBIT B

C1107021

02/11/05 12:48 FAX 720 888 5134 LEVEL 3 COMMUNICATIONS 007
 FEB 11 2005 14:18 FR SBC LEGAL DALLAS 214 454 1626 TO 8#7208885134 P.07

1st Amendment Superseding Certain Intercarrier Compensation
 Interconnection and Trunking Provisions
 SBC ILECs/Level 3 Communications, LLC
 February 10, 2005

*First Amendment
 Superseding Certain Intercarrier Compensation,
 Interconnection and Trunking Provisions*

This First Amendment Superseding Certain Intercarrier Compensation, Interconnection and Trunking Terms ("First Amendment") is applicable to this and any future Interconnection Agreement as provided herein between SBC Operations, Inc. ("SBC") on behalf of and as agent for Illinois Bell Telephone Company d/b/a SBC Illinois, Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, Michigan Bell Telephone Company d/b/a SBC Michigan, The Ohio Bell Telephone Company d/b/a SBC Ohio, Wisconsin Bell Inc. d/b/a SBC Wisconsin, Nevada Bell Telephone Company d/b/a SBC Nevada, Pacific Bell Telephone Company d/b/a SBC California, The Southern New England Telephone Company d/b/a SBC SNET, and Southwestern Bell Telephone, L.P. d/b/a SBC Missouri, SBC Oklahoma, SBC Texas, SBC Arkansas, and SBC Kansas and any of its future Affiliates or subsidiaries which are the Incumbent Local Exchange Carrier (hereinafter each individually being a "SBC ILEC," and collectively being the "SBC ILECs") and Level 3 Communications, LLC and any of its future Affiliates or subsidiaries which are a Certified Local Exchange Carrier ("Level 3"), in the states of California, Nevada, Texas, Missouri, Oklahoma, Kansas, Arkansas, Illinois, Wisconsin, Michigan, Indiana, Ohio, or Connecticut from January 1, 2005 through and including the Termination Date, whether negotiated, arbitrated, or arrived at through the exercise of Section 252(i) "Most Favored Nation" ("MFN") rights. Each of the SBC ILECs and Level 3 may be referred to individually as "Party," or collectively as the "Parties";

WHEREAS, SBC ILECs and Level 3 entered into interconnection agreements pursuant to Sections 251 and 252 of the Communications Act of 1934, as amended (the "Act") that were approved by the applicable state commissions (the "ICAs"); and

WHEREAS, SBC ILECs and Level 3 agree that they would not have agreed to this First Amendment except for the fact that it was entered into on a 13-State basis and included the totality of rates, terms and conditions listed herein;

WHEREAS, for the states of California, Nevada, Texas, Missouri, Oklahoma, Kansas, Arkansas, Illinois, Wisconsin, Michigan, Indiana, Ohio and Connecticut, the Parties entered into a Second Amendment to Level 3 Contracts Superseding Certain Reciprocal Compensation, Interconnection and Trunking Terms which expired on December 31, 2004; and

WHEREAS, for the states of California, Nevada, Texas, Missouri, Oklahoma, Kansas, Arkansas, Illinois, Wisconsin, Michigan, Indiana, Ohio and Connecticut, the Parties desire to extend the Amendment for the period from January 1, 2005 up through and including the Termination Date subject to the modifications set forth herein.

NOW, THEREFORE, for and in consideration of the promises, mutual promises and covenants contained in this First Amendment, and other good and valuable

02/11/05 12:48 FAX 720 888 5134
FEB 11 2005 14:19 FR SBC LEGAL DALLAS

LEVEL 3 COMMUNICATIONS

008

214 464 1626 TO 8#7208885134 P.08

1st Amendment Superseding Certain Intercarrier Compensation
Interconnection and Trunking Provisions
SBC ILECs/Level 3 Communications, LLC
February 10, 2005

consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1.0 Term, Scope of Agreement and Lock In:

1.1 The term of this First Amendment shall commence on January 1, 2005 and shall continue until December 31, 2006 ("Termination Date"). Thereafter, provided that Level 3 does not MFN into or otherwise adopt an underlying Interconnection Agreement with a term ending after December 31, 2006, this Amendment will remain in full force and effect unless terminated by either Party according to the terms and conditions of the underlying Interconnection Agreement to which this First Amendment applies. The Parties agree that this First Amendment will act to supersede, amend and modify the applicable provisions currently contained in the ICAs. This First Amendment shall also be incorporated into and become a part of, by exhibit, attachment or otherwise, and shall supersede, amend, and modify the applicable provisions of, any future interconnection agreement(s) between the Parties for the period from January 1, 2005¹ up through and including the Termination Date, whether negotiated, arbitrated, or arrived at through the exercise of Section 252(i) MFN rights.

1.2 Any inconsistencies between the provisions of this First Amendment and other provisions of the current ICAs or future interconnection agreement(s) described above for the period from January 1, 2005 through and including the Termination Date, will be governed by the provisions of this First Amendment, unless this First Amendment is specifically and expressly superseded by a future amendment between the Parties.

1.3 If the underlying ICAs or any future interconnection agreement(s) expire sooner than the Termination Date, the Parties agree that the First Amendment shall not extend or otherwise alter the term and termination rights of the underlying ICAs or any future interconnection agreement(s), but instead, the First Amendment will be incorporated into any successor interconnection agreement(s) between the Parties through December 31, 2006. To the extent that the date of state PUC approval of the underlying interconnection agreement precedes the date of state PUC approval of the First Amendment, the Parties agree that the rates, terms and conditions of the First Amendment will, upon state PUC approval of the First Amendment, apply retroactively to January 1, 2005.

1.4 Level 3 hereby waives its section 252(i) MFN rights; provided, however, that if another agreement contains rates, terms, and conditions for intercarrier compensation, points of interconnection or trunking that have been voluntarily agreed to

¹ It is SBC's position that notwithstanding anything to the contrary in the Agreement (including, as applicable, this Amendment and any other Amendments to the Agreement ("Agreement")), in the event that any other telecommunications carrier should adopt provisions in the Agreement pursuant to Section 252(i) of the Act ("Adopting CLEC") after January 1, 2005, such Adopting CLEC shall only be entitled to receive the rates, terms and conditions as set forth in this amendment prospectively beginning from the date that the MFN provisions become effective between ILEC and the Adopting CLEC, following the date the applicable public utilities commission approves or is deemed to have approved the Adopting CLEC's Section 252(i) adoption ("Section 252(i) Effective Date"). In no event shall an Adopting CLEC be entitled to the application of the rates, terms and conditions under its MFN Provisions to a date prior to its Section 252(i) Effective Date.

02/11/05 12:49 FAX 720 888 5134
FEB 11 2005 14:19 FR SBC LEGAL DALLAS

LEVEL 3 COMMUNICATIONS

214 464 1626 TO 8#7208885134

009

P.03

1st Amendment Superseding Certain Intercarrier Compensation
Interconnection and Trunking Provisions
SBC ILEC/Level 3 Communications, LLC
February 10, 2005

by SBC ILEC across the thirteen-state region as a whole, Level 3 may exercise its rights under section 252(i) to obtain the agreement in its entirety provided that the agreement is otherwise available for adoption. This waiver includes, but is not limited to, any lease, transfer, sale or other conveyance by Level 3 of all or a substantial portion of its assets, in which case Level 3 shall obtain the purchaser's agreement to be bound by the terms and conditions set forth herein, but only as to that portion of purchaser's operations resulting from the purchase of Level 3

2.0 Change of Law:

2.1 During the period from January 1, 2005 up through and including the Termination Date, the Parties waive any rights they may have under the Parties' current ICAs or any future interconnection agreement(s) to which this First Amendment is added, or any other amendments thereto with respect to Total Compensable Local Traffic (as defined herein), POIs or trunking requirements that are subject to this First Amendment, except as set forth in Sections 7 below. Provided, however, that if the FCC acts without issuing an order in the *Level 3, 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 03-266, (filed Dec. 23, 2003) ("*Level 3 Forbearance Petition*") or the *Level 3 Forbearance Petition* otherwise takes effect by operation of Section 10 of the Act or if the FCC issues an order in CC Docket 96-98, the FCC's rulemaking in *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket 0192, established in Notice of Proposed Rulemaking Order No. 01-132 (April 27, 2001) and/or *In the Matter of IP Enabled Services*, WC Docket 04-36 (collectively or individually "FCC Order"), the affected provisions of this Amendment relating to reciprocal compensation, Total Compensable Local Traffic (as defined herein), POIs or trunking requirements shall be invalidated, modified, or stayed, consistent with such FCC Order, with such invalidation, modification, or stay becoming effective only upon the date of the written request of either Party once the FCC Order has become effective (the "Written Request"). In such event, upon receipt of the Written Request, the Parties shall expend diligent efforts to arrive at an agreement regarding the appropriate conforming modifications to the ICAs, future interconnection agreement(s) and Amendment (including any separate amendments to such agreements). If negotiations fail, disputes between the Parties concerning the interpretation of the actions required or provisions affected by such FCC Order shall be resolved pursuant to the dispute resolution process provided for in the ICAs or future interconnection agreement(s), provided, however, that the rates, terms and conditions ultimately ordered by a state commission, court, or other body of competent jurisdiction in the complaint proceeding or negotiated by the Parties during the dispute resolution process shall be retroactive to the effective date of the Written Request following such FCC Order. Except with respect to the specific exceptions in this Section 2.2 as to the specific provisions relating to Total Compensable Local Traffic (as defined herein), POIs or trunking requirements, during the time period from January 1, 2005 up through and including the Termination Date, each Party shall otherwise have full intervening law rights under the underlying ICAs or future interconnection agreement(s), and may invoke such intervening law/change in law rights as to any provisions in the

02/11/05 12:49 FAX 720 888 5134
FEB 11 2005 14:19 FR SBC LEGAL DALLAS

LEVEL 3 COMMUNICATIONS

010

214 464 1626 TO 8#7208005134

P.10

1st Amendment Superseding Certain Inter-carrier Compensation
Interconnection and Trunking Provisions
SBC ILECs/Level 3 Communications, LLC
February 10, 2005

Agreement (including any separate amendments to the Agreement) impacted by any regulatory, legislative or judicial action.

3.0 Reservations of Rights:

3.1 Notwithstanding the remedies set forth in Section 7.0 and any other remedies or procedures reflected herein, SBC or Level 3 may also elect, at their sole discretion, to immediately pursue their legal remedies against each other and/or any other carrier in a court of law or other venue in lieu of or in addition to the remedies or procedures set forth herein.

3.2 When traffic is misclassified as set forth herein, both Parties shall fully cooperate, to the fullest extent allowed by law, in the assertion and/or prosecution of any claims, defense or other actions against other carriers.

3.3 Except as specifically modified by this First Amendment with respect to their mutual obligations herein and subject to Section 2.0, and including, but not limited to: (1) whether ISP calls constitute local traffic and is or is not subject to reciprocal compensation obligations; (2) what should be the appropriate treatment (compensation and routing/trunking) of IP-PSTN traffic and what facilities should be used to transport such traffic; and (3) what should be the appropriate treatment (compensation and routing) of Virtual Foreign Exchange traffic, neither Party relinquishes, and each Party instead fully reserves, any and all legal rights that it had, has and may have to assert any position with respect to any of the matters set forth herein before any state or federal administrative, legislative, judicial or other legal body. The Parties further agree that nothing in this First Amendment shall be construed as an admission on the matters set forth above and that neither Party will claim, in any forum, that the matters set forth herein indicated the other Party's agreement or acquiescence that the arrangements set forth herein are the proper arrangements under Section 251 of the Act.

4.0 Network Architecture Requirements:

4.1 In California and Illinois, Level 3 will establish a physical point of interconnection ("POI") in each mandatory local calling area. The Parties agree that this requirement is satisfied if Level 3 (at its sole option) establishes a POI either:

(i) at each SBC access or local tandem and each end office where Level 3 maintains a physical collocation arrangement (but only for those trunk groups associated with that end office); or

(ii) within 15.75 miles of the Vertical and Horizontal coordinate of each local calling area where an SBC end office does not subtend an SBC tandem.

4.2 In Connecticut, Indiana, Michigan, Nevada, Ohio, and Wisconsin, Level 3 will establish a POI in each mandatory local calling area. The Parties agree that this requirement is satisfied if Level 3 establishes a POI at each SBC access or local tandem

02/11/05 12:49 FAX 720 888 5134
FEB 11 2005 14:19 FR SBC LEGAL DALLAS

LEVEL 3 COMMUNICATIONS

214 464 1626 TO 8#7208885134

011

P.11

1st Amendment Superseding Certain Inter-carrier Compensation
Interconnection and Trunking Provisions
SBC ILECs/Level 3 Communications, LLC
February 10, 2005

and at an End Office not served by a SBC Tandem when traffic to that end office exceeds 6 DS1s at peak over three (3) consecutive months.

4.3 In Texas, Oklahoma, Missouri, Kansas and Arkansas, Level 3 will establish a POI in 80% of the total number of mandatory local calling areas within each state ("MLCA POIs"). Once Level 3 has established such MLCA POIs in 80% of the total number of mandatory local calling areas within a state:

- (i) Level 3 shall maintain its existing MLCA POIs within that state; and
- (ii) and for mandatory local calling areas where Level 3 has not established a POI Level 3 will establish or maintain at least one POI per LATA and will establish additional POIs:
 - (a) at a tandem separate from the existing POI arrangement, when traffic to that tandem and its subtending end offices exceeds twenty-four DS1s at peak over three (3) consecutive months; or
 - (b) at an End Office not served by a SBC Tandem when traffic to that end office exceeds 6 DS1s at peak busy hour over three (3) consecutive months.

4.4 The additional POI(s) will be established within 90 days of notification that the threshold has been met.

4.5 Level 3 shall be financially responsible for one hundred percent (100%) of the facilities, trunks, and equipment on its side of the POI. The financial responsibility for the facilities, trunks and equipment on SBC's side of POI shall be shared by the Parties based on the percentage of traffic carried over the facility that is interLATA and intraLATA access traffic out of the total interLATA, Section 251(b)(5), ISP-bound and intraLATA traffic carried over the facility. Level 3 shall be financially responsible for the percentage of the facility cost equivalent to the percentage of the interLATA and intraLATA access traffic that is transported over that facility. The portion of the facility cost that is equivalent to the percentage of IP-PSTN traffic transported over the facility will be placed by Level 3 into the escrow account addressed in Section 7 herein and shall be subject to all terms and conditions of Section 7. The parties will use the transport rate set forth in the state and interstate SBC switched access tariffs corresponding to the location of the facility as a proxy for determining the rates Level 3 will pay for its percentage. For example, but not by way of limitation, if 20% of the traffic transported over a particular facility is intraLATA and interLATA access traffic Level 3 will pay to SBC an amount equal to 20% of the tariffed switched access rate transport rate for interLATA traffic for the facility used to carry such traffic.

4.6 Level 3 may, at its sole option, establish a POI by obtaining dedicated Special Access services or facilities from SBC ILECs (without the need for Level 3 equipment, facilities, or collocation at the SBC ILECs' offices), or services or facilities from a First party, by establishing collocation, , or by provisioning such services or

02/11/05 12:49 FAX 720 888 5134
FEB 11 2005 14:20 FR SBC LEGAL DALLAS

LEVEL 3 COMMUNICATIONS

012

214 464 1626 TO 8H7208885134

P.12

1st Amendment Superseding Certain Inter-carrier Compensation
Interconnection and Trunking Provisions
SBC ILECs/Level 3 Communications, LLC
February 10, 2005

facilities for itself. If Level 3 utilizes dedicated Special Access facilities, it shall be required to begin paying SBC ILEC for such facilities once the facilities are jointly tested and accepted at a trunk level.

4.7 The Parties will use the interconnection architecture described in this Section 4 ("Interconnection Arrangements") to exchange Section 251(b)(5), ISP-bound, IP-PSTN, PSTN-IP, intraLATA and interLATA traffic exchanged between (i) SBC end users and Level 3 end users or Level 3 customers' end users or (ii) Level 3 and end users served by First party telecommunications carriers using an SBC non-resale offering whereby SBC provides the end office switching on a wholesale basis. If Level 3 desires to act as a presubscribed interexchange carrier ("PIC") and desires to route such PIC traffic over the interconnection architecture, Level 3 will make a written request, and subject to the Parties' mutual agreement, the Parties will negotiate in good faith to evaluate the feasibility of transporting such traffic. If Level 3 utilizes the interconnection architecture described in Section 4 for purposes other than those set forth in this Section 4.7, Level 3 will compensate SBC for the carriage of such traffic and contact the terminating carrier to make appropriate compensation arrangements.

4.7.1 Indemnification:

4.7.1.1 Notwithstanding the indemnification provisions in the underlying interconnection agreement to which this Amendment applies, where Level 3 utilizes the interconnection architecture for purposes other than those specified in Section 4.7 herein and SBC provides information that identifies Level 3 as having routed such traffic to a First party carrier in violation of section 4.7 and such carrier brings legal action against SBC for such traffic, Level 3 will also indemnify and defend and hold harmless SBC against such carrier(s) seeking compensation for such traffic to the extent such indemnification and hold harmless is related to the aforementioned traffic.

4.8 Level 3 agrees to abide by SBC ILECs' trunk engineering/administration guidelines as stated in the ICAs.

4.9 The Parties recognize that embedded one-way interconnection trunks may exist. Within forty five (45) days of the execution of this amendment, the Parties will agree to a transition plan to migrate the embedded one-way trunks to two-way trunks via a method described in Appendix NIM, which shall include a cutover and project management plan. The Parties will coordinate any such migration, trunk group prioritization, and implementation schedule.

4.10 Subject to Section 4.12 in order to qualify for receipt of reciprocal compensation for Total Compensable Local Traffic in a given tandem serving area as provided in this amendment, Level 3 will achieve and maintain a network architecture within that tandem serving area such that Direct End Office Trunking ("DEOT") does not fall below 70% of total trunking within such tandem serving area for two consecutive months. Subject to Section 4.11, if Level 3 has not established a POI required by this

1st Amendment Superseding Certain Intercarrier Compensation
Interconnection and Trunking Provisions
SBC ILECs/Level 3 Communications, LLC
February 10, 2005

Section 4.0, Level 3 shall not be entitled to intercarrier compensation for calls from that local calling area.

4.11 For new interconnections, Level 3 will achieve the DEOT criteria identified in Section 4.9 no later than six (6) months (or such other period as may be agreed to by the Parties) after the parties first exchange traffic for each new interconnection arrangement.

4.12 Under no circumstances shall Level 3 have any liability or otherwise be penalized under this First Amendment for non-compliance with the applicable POI and DEOT criteria specified herein during the transition period identified in Section 4.10. Furthermore, Level 3 will have no liability and will face no penalty for non-compliance with the POI and DEOT criteria specified herein at any time thereafter if such non-compliance results from SBC ILEC's inability to provide staffing, collocation space, trunking, or facilities necessary to satisfy the transition or from SBC ILEC's failure to perform required network administration activities (including provisioning, activation, and translations), regardless of whether SBC ILEC's inability or failure to perform is related to a Force Majeure event as that term is described in the underlying ICAs.

4.12.1 Establishing a New POI where Level 3 provides service as of the date of execution of this First Amendment: Level 3 will notify SBC ILEC of Level 3's intention to establish a new POI in an existing local calling area (or other applicable serving area in California, Nevada, Connecticut, and Ameritech territory) no later than 90 days prior to the end of the transition period by letter to the SBC ILEC Account Manager and project manager for Level 3. Level 3 and SBC ILEC will meet within 10 business days of such notice to plan the transition to any new POI. This notice and subsequent meeting are intended to give both parties adequate time to plan, issue orders, and implement the orders in the transition period under Section 4.10. Nothing in this paragraph specifically or this First Amendment generally shall prevent Level 3 from ordering, or excuse SBC ILECs from provisioning, trunks with respect to an existing POI for new growth or augmentations during the time that a new POI is being established.

4.12.2 Establishing a POI where Level 3 does not provide service as of the date of execution of this Amendment: Level 3 will notify its SBC ILEC Account Manager no later than 90 days prior to the LERG effective date for the new NPA-NXXs it wishes to activate. Joint planning meetings for the new POI will be held within 10 business days of SBC ILEC's receipt of such notification. The outcome of the joint planning meeting will be orders for facilities and trunks for the new POI to complete the establishment of the POI as promptly as possible, and in any event, by the LERG effective date for the new NPA-NXX. The POI must be established in the applicable Local Calling Area (or other applicable serving area in California, Nevada, Connecticut, and Ameritech territory) prior to the exchange of live traffic.

4.13 At any time as a result of either Party's own capacity management assessment, the Parties may begin the provisioning process. The intervals used for the

1st Amendment Superseding Certain Inter-carrier Compensation
Interconnection and Trunking Provisions
SBC ILECs/Level 3 Communications, LLC
February 10, 2005

provisioning process will be the same as those used for SBC ILECs' Switched Access service.

4.14 The movement of existing trunks to new POIs, either on a rollover basis or a disconnect and add basis, will not be counted against any limitations otherwise placed on Level 3's ability to order and receive trunks in any given market.

4.15 In a blocking situation, Level 3 may escalate to its SBC ILEC Account Manager in order to request a shorter interval. The SBC ILEC Account Manager will obtain the details of the request and will work directly with the SBC ILEC LSC and network organizations in order to determine if Level 3's requested interval, or a reduced interval, can be met.

5.0 Compensable Traffic:

5.1 If Level 3 designates different rating and routing points such that traffic that originates in one rate center terminates to a routing point designated by Level 3 in a rate center that is not local to the calling party even though the called NXX is local to the calling party, such traffic ("Virtual Foreign Exchange" traffic) shall be rated in reference to the rate centers associated with the NXX prefixes of the calling and called parties' numbers, and treated as Local traffic for purposes of compensation.

5.2 Section 251(b)(5) traffic, Virtual Foreign Exchange, Mandatory Local, Optional EAS traffic will be combined with traffic terminated to Internet Service Providers (ISPs) to determine the Total Compensable Local Traffic.

5.3 For intrastate and interstate toll traffic, compensation for termination of intercompany traffic will be at terminating access rates for Message Telephone Service (MTS) and originating access rates for 800 Service, including the Carrier Common Line (CCL) charge where applicable, as set forth in each Party's applicable Tariffs, but such compensation shall not exceed the compensation contained in an ILEC's tariff in whose exchange area the End User is located.

5.4 Except as provided in Section 7.0 herein, all traffic terminated to SBC end users by Level 3 (including, but not limited to IP-PSTN traffic as defined herein), will be treated as if it were originated by Level 3 and compensated accordingly.

6.0 Rate Structure and Rate Levels:

Total Compensable Local Traffic as defined herein will be exchanged in all states at the rates set forth below. These rates shall be payable to the party on whose network the call is terminating, and shall apply symmetrically for traffic originated by one party and terminated on the other party's network.

January 1, 2005 to June 30, 2005:	\$.00050 per minute of use;
July 1, 2005 to December 31, 2005:	\$.00045 per minute of use;
January 1, 2006 to Termination Date:	\$.00040 per minute of use.

02/11/05 12:50 FAX 720 888 5134
FEB 11 2005 14:20 FR SBC LEGAL DALLAS

LEVEL 3 COMMUNICATIONS

015

P. 15

1st Amendment Superseding Certain Intercarrier Compensation
Interconnection and Trunking Provisions
SBC ILECs/Level 3 Communications, LLC
February 10, 2005

In the event that this First Amendment continues beyond the Termination Date as set forth in Section 1.1, the Parties agree that the rate for Total Compensable Local Traffic shall be \$.00035 per minute of use.

7.0 IP-PSTN Traffic

7.1 For purposes of this agreement, Internet Protocol – Public Switched Telephone Network Traffic (“IP-PSTN Traffic”) is defined as traffic that originates in IP format over a broadband connection, is transmitted to the IP service provider in IP format, is converted from IP format to circuit switched format and is terminated to a party served by a circuit switch; and/or,

7.2 For purposes of this agreement, Public Switched Telephone Network - Internet Protocol Traffic (“PSTN-IP Traffic”) is defined as traffic that originates from a party served by a circuit switch, is converted from circuit-switched format to IP format, is transmitted by the IP service provider in IP format, and is terminated in IP format except that traffic PIC'd to an LXC is not included in this definition.

7.3 The Party delivering IP-PSTN Traffic for termination to the other Party's end user customer (the “Delivering Party”) shall pay to the other party the rate for Total Compensable Local Traffic as defined in Section 6 above. On a monthly basis, no later than the 15th day of the succeeding month to which the calculation applies, the Delivering Party shall report its calculation of the difference between the amounts Level 3 paid to SBC for terminating such traffic (at rates applicable to Total Compensable Local Traffic (as defined herein)) and the amounts Level 3 would have paid had that traffic been rated according to SBC's intrastate or interstate switched access tariffs based upon originating and terminating NPA-NXX (“Delta”). By the first day of the following month, the Parties will agree on the amount of the Delta. At such time as the Delta exceeds \$500,000 the Parties will negotiate resolution of the Delta for a period not to exceed eleven (11) business days. If the Parties are unable to reach resolution, Level 3 shall pay the Delta into an interest bearing escrow account with a First Party escrow agent mutually agreed upon by the Parties.

7.4 To be acceptable, the escrow agent and escrow account must meet all of the criteria established in the General Terms and Conditions of the Parties' underlying Interconnection Agreement except disbursements from the escrow account will be limited to those authorized in writing by both Parties.

7.5 If SBC determines in good faith in any month that 2% or more of the traffic originated by Level 3 and/or its customers is classified by Level 3 (1) as IP-PSTN Traffic when it is not IP-PSTN Traffic (e.g. it is PSTN-IP-PSTN traffic), or (2) as traffic subject to the Total Compensable Local Traffic rate, when in reality the traffic is subject to the terminating party's state or federal switched access tariff the Parties agree:

02/11/05 12:50 FAX 720 888 5134

LEVEL 3 COMMUNICATIONS

010

FEB 11 2005 14:20 FR SBC LEGAL DALLAS

214 464 1626 TO 8#7208885134

P.16

1st Amendment Superseding Certain Intercarrier Compensation
Interconnection and Trunking Provisions
SBC (LECs/Level 3 Communications, LLC
February 10, 2005

(i) SBC will provide sufficient call detail records or other information (including the reasons that SBC believes the traffic is misidentified) to permit Level 3 to investigate and identify the traffic SBC has determined is misidentified;

Level 3 shall correct the classification for such traffic

a. Pay the Delta for traffic previously terminated and billed as Total Compensable Local Traffic; and

b. Pay the appropriate tariffed switched access rates for traffic terminated but not yet billed.

(iii) Level 3 shall pay SBC the applicable tariffed switched access rates for all misclassified traffic;

(iv) the Parties agree that if more than 2% of the total traffic exchanged is misclassified, there is a presumption that the misclassification is intentional, rebuttable by Level 3. Level 3 will pay SBC twice the rate of the switched access applicable to such misclassified traffic terminated by SBC.

7.6 If SBC determines that any traffic terminated to SBC by Level 3 that is not originated by Level 3 or its customer is classified (1) as IP-PSTN Traffic when that traffic is not IP-PSTN Traffic (e.g. it is PSTN-IP-PSTN traffic), or (2) as traffic subject to the Total Compensable Local Traffic rate, when in reality the traffic is subject to terminating party's intrastate or interstate switched access tariff the Parties agree:

(i) SBC will provide sufficient call detail records or other information (including the reasons that SBC believes the traffic is misidentified) to permit Level 3 to investigate and identify the traffic SBC has determined is misidentified;

(ii) Level 3 will provide a written response to SBC within ten (10) business days;

(iii) Level 3 will take such actions as appropriate and lawful to correct the misclassification of all such misclassified traffic;

(iv) Level 3 will pay SBC the applicable switched access rates for all such misclassified traffic; or provide information and affirmative assistance requested by SBC in its effort to recover the appropriate compensation for the misclassified traffic;

(v) to cooperate in the investigation and recovery of the appropriate compensation for the misclassified traffic from the appropriate party.

7.7 Each month, Level 3 agrees to provide, in electronic format, a call detail record for each call that Level 3 delivers to SBC and for each call that SBC delivers to a

1st Amendment Superseding Certain Intercarrier Compensation
Interconnection and Trunking Provisions
SBC ILECs/Level 3 Communications, LLC
February 10, 2005

Level 3 customer utilizing IP service. Such call detail records shall contain, at a minimum, the following information: Message Date (MM/DD/YY); Originating Number; Terminating Number; Terminating LRN; Connect Time; and Elapsed Time. Additionally Level 3 agrees to provide information sufficient to classify the traffic (Total Compensable Traffic, IP-PSTN, Intrastate Switched Access, Interstate Switched Access, and such other information as necessary to calculate the Delta as set forth in Section 7 of this First Amendment).

7.8 This Section 7.0 shall remain in effect until the effective date of an FCC Order or addressing compensation for IP-PSTN/ PSTN -IP traffic, at which time the Parties agree to allocate the Delta identified in Section 7.3 in a manner consistent with such Forbearance Petition or FCC order and the affected provisions shall be immediately invalidated, modified, or stayed, consistent with the action of the legislative body, court or regulatory agency upon the written request of either Party. In such event, the Parties shall amend this First Amendment within forty-five (45) days to incorporate appropriate conforming modifications to the Agreement. If negotiations fail, disputes between the Parties concerning the interpretation of the actions required or provisions affected by such governmental actions shall be resolved pursuant to the dispute resolution process provided for in this Agreement.

7.9 Nothing herein shall be deemed to represent a waiver by either Party of any rights with respect to any of the matters addressed in the aforementioned FCC proceedings, including but not limited rights of reconsideration, appeal, and assertions of rights with regard to intercarrier compensation.

8.0 PSTN-IP-PSTN Traffic

8.1 PSTN-IP-PSTN Traffic is defined as traffic that originates from a party served by a circuit switch, is converted from circuit-switched format to IP format, is transmitted by the IP service provider in IP format, is converted from IP format to circuit switched format and is terminated to a party served by a circuit switch.

8.2 PSTN-IP-PSTN Traffic is subject to the either Total Compensable Local Traffic rate or the appropriate intrastate or interstate switched access rate in accordance with Section 5.

9.0 Additional Terms and Conditions:

9.1 Severability. If any provision of this First Amendment, or part thereof, shall be held to be invalid or unenforceable in any respect, such invalidity or unenforceability shall not invalidate the entire First Amendment, unless such construction would be unreasonable. The First Amendment shall be construed as if it did not contain the invalid or unenforceable provision or provisions, and the rights and obligations of each Party shall be construed and enforced accordingly. Provided, however, that in the event such invalid or unenforceable provision or provisions are essential elements of this

02/11/05 12:50 FAX 720 888 5134
FEB 11 2005 14:21 FR SBC LEGAL DALLAS

LEVEL 3 COMMUNICATIONS

018

214 464 1626 TO BH7208885134

P.18

1st Amendment Superseding Certain Intercarrier Compensation
Interconnection and Trunking Provisions
SBC ILECs/Level 3 Communications, LLC
February 10, 2005

First Amendment and substantially impair the rights or obligations of either Party, the Parties shall promptly negotiate a replacement provision or alternative provisions or arrangements..

9.2 Confidentiality - In addition to the confidentiality obligations contained within the Agreement to which this First Amendment applies, the parties recognize that the degree to which information to be shared pursuant to the Amendment is subject to all applicable state and federal laws and regulations, along with whatever contractual obligations, if any, either Party may have relative to customer information. In the event a restriction on the release of such information exists as referenced in the preceding sentence, the Parties agree to cooperate to remove any such barriers.

9.3 Except as specifically modified by this First Amendment with respect to their mutual obligations herein and subject to Section 2.0, neither Party relinquishes, and each Party instead fully reserves, any and all legal rights that it had, has and may have to assert any position with respect to any of the matters set forth herein before any state or federal administrative, legislative, judicial or other legal body.

9.4 This First Amendment is the joint work product of the Parties and has been negotiated by the Parties and their respective counsel and shall be fairly interpreted in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against either Party.

9.5 The terms contained in this First Amendment constitute the agreement with regard to the superseding, modification, and amendment of the ICAs and incorporation into future interconnection agreement(s) through December 31, 2006, and shall be interpreted solely in accordance with their own terms.

9.6 The headings of certain sections of this First Amendment are for convenience of reference only, and shall in no way define, modify or restrict the meaning or interpretation of the terms or provisions of this First Amendment.

9.7 This First Amendment may be executed in any number of counterparts, each of which shall be deemed an original; but such counterparts shall together constitute one and the same instrument.

9.8 SBC Telecommunications, Inc. hereby represents and warrants that it is authorized to act as agent for, and to bind in all respects as set forth herein, the individual SBC ILECs. Level 3 hereby represents and warrants that it is authorized to act as agent for, and to bind in all respects as set forth herein, all Affiliates.

9.9 Upon expiration or termination of this Agreement, the obligations of the underlying ICA apply to the Parties, unless otherwise agreed. However, any liabilities or obligations of a Party for acts or omissions prior to the expiration or termination of this

1st Amendment Superseding Certain Inter-carrier Compensation
Interconnection and Trunking Provisions
SBC ILEC's/Level 3 Communications, LLC
February 10, 2005

First Amendment and any other provisions of this First Amendment which, by their terms, are contemplated to survive (or to be performed after) termination of this Agreement, including, but not limited to Section 7.8, will survive cancellation or termination thereof.

10.0 Definition of Affiliate

As used above, the term "Affiliate" shall mean as defined in the Act.

Level 3 Communications, LLC

SBC ILEC's by SBC Operations, Inc., its
authorized agent

Signature: Kevin Dundon

Signature: Glen Sirles

Name Kevin Dundon

Name: GLEN SIRLES

Title: Sr Vice President, Wholesale
Industry Markets

^{FOR} Title: President - Industry Markets

Date: February 10, 2005

Date: 02-10-2005

AECN/OCN: _____