

LEVEL 3 - SBC 13State –DPL – GTC DEFINITIONS

| Issue No. | Petition Issue | Issue Description | Disputed Contract Language | Level 3 Position/Support | SBC Position/Support |
|-----------|----------------|---|--|--|--|
| DEF 1 | | Should the definition of Access Tandem Switch be limited to IXC-carried traffic or should it include IntraLATA toll Traffic, Section 251(b)(5) Traffic and ISP-Bound Traffic? | <u>“Access Tandem Switch” is a local exchange carrier switching system that provides a concentration and distribution function for originating and/or terminating traffic between a LEC end office network and IXC points of presence defined as a switching machine within the public switched telecommunications network that is used to connect and switch trunk circuits between and among office switches for IXC-carried traffic (SBC-SOUTHWEST) and IXC-carried, IntraLATA Toll traffic, Section 251(b)(5) traffic and ISP-bound Traffic (SBC CALIFORNIA, SBC-NEVADA, SBC-MIDWEST and SBC- CONNECTICUT).</u> | The definition of Access Tandem Switch should refer only to IXC-carried traffic, which is consistent with FCC orders and regulations. Access tandem switch is used when there is interexchange carrier, circuit switched traffic, not in the next-generation of technology. “For long distance calls, by contrast, the long-distance carrier collects from the user and pays both LECs--the one originating and the one terminating the call. <u>Local Competition Order, 11 FCC Rcd at 16013, ¶ 1034.</u> ” WorldCom, Inc. v. F.C.C., 288 F.3d 429, 431 (DC Cir. 2002). Level 3’s proposed definition is taken directly from the Newton’s telecom Dictionary, 14 th Edition. | The network architectures employed in SBC's ILEC region have been established for many years. Within those designs are tandems that have been provisioned to handle specific types of traffic. One of these types of switches is an Access Tandem. In certain states, an Access Tandem handles only IXC carried traffic. In other states, it is used for IntraLATA Toll traffic, Section 251(b)(5) traffic and ISP-bound Traffic as well. It is important to define each type of tandem because not all the tandem provisions within the contract apply to all the different types of tandems. Level 3's definition does not reflect the actual networks in use in the SBC states. |
| DEF 2 | | In the event that the Commission agrees with Level 3 in the Intercarrier Compensation Appendix Section 4.5 that the Parties should not be required to use “CPN” in | <u>“Call Record” shall include identification of the following: charge number, Calling Party Number (“CPN”), or Automatic Number Identifier (“ANI”), and will include an identification of whether a call is IP Enabled. In the alternative, a “Call Record” may include any other information agreed upon by both Parties to be used for identifying the jurisdictional nature of the calling party or for assessing applicable intercarrier compensation charges.</u> | This issue is directly linked with Level 3’s proposals in the Intercarrier Compensation Appendix, Section 4.5. Level 3 proposes utilizing the phrase “Call Record” when discussing the Parties’ obligations to provide identification data within | SBC opposes the use of the term "Call Record," which Level 3 proposes to use in lieu of "CPN." "CPN" is a term used and known in the industry, unlike Level 3's "Call Record." Whether this definition should be included depends on how the Commission |

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| | | the call flow for IP-Enabled Traffic but rather should use “Call Record”, should the Commission incorporate Level 3’s proposed definition for “Call Record”? | | <p>the call flow of circuit switched traffic, as compared to SBC’s proposed use of the CPN data for all traffic. Level 3 believes the “Call Record” reference allows for more flexibility for the Parties to agree to new or different technologies in recording. SBC’s proposed “CPN” reference limits the Parties to only that form of technology.</p> <p>Further, the technology does not exist that will allow for “CPN” to be included in the call flow of IP-Enabled Traffic. In practical terms, the issue of whether the “call record” definition should be included will be determined when the Commission addresses Level 3’s proposed language in Section 4.5 of the Intercarrier Compensation Appendix.</p> | resolves the parties' dispute with respect to Section 4.5 of the Intercarrier Compensation Appendix. |
| DEF 3 | | Level 3 Issue (a): Should the categorization of Circuit Switched Traffic be consistent with the | <u>"Circuit Switched IntraLATA Toll Traffic" is Telecommunications Services traffic between one SBC-13STATE's local calling area and the local calling area of another SBC-13STATE or LEC within one LATA within the respective</u> | (a) Yes, the Agreement should include the definition of Circuit Switched intraLATA Toll Traffic. This definition follows the FCC’s latest pronouncement | (a) No. For the reasons set forth in connection with various ITR issues (including Nos. 2, 5, 13, 15 and 18), Level 3’s references to Circuit Switched IntraLATA |

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| | | <p>FCC’s orders that distinguish Circuit Switched Traffic from IP enabled traffic?</p> <p>SBC Issue (a): Should the Commission adopt a definition of “Circuit Switched IntraLATA Toll Traffic”?</p> <p>SBC Issue (b) If the answer to (a) is yes, should Circuit Switched IntraLATA Toll Traffic be identified consistent with FCC orders as that traffic between the Parties’ local calling areas within one LATA in the state?</p> | <p><u>state.</u></p> | <p>on what constitutes this type of traffic in its AT&T IP Order. In the Matter of Petition for Declaratory Ruling that AT&T’s Phone-to-Phone IP Telephony Services are Exempt from Access Charges, Docket No. 02-361 (rel. April 21, 2004)</p> | <p>Toll Traffic are inappropriate and the term should not appear in the Agreement.</p> <p>(b) No. Level 3’s definition is not consistent with an IntraLATA call that is exchanged outside of a local calling area as defined by applicable Commission rules. Accordingly, this ambiguity could lead to future intercarrier compensation disputes between the parties and as such the Commission should use the definition of IntraLATA Toll Traffic already agreed to by the parties. <i>See also</i> SBC Position Statement, Issues ITR 2, 5, 13, 15 and 18.</p> |
| DEF 4 | | <p>Level 3 Issue: Does the FCC’s Interim Order maintain the status quo as of June 15, 2004 of the parties’ existing interconnection agreement with respect to the availability of</p> | <p><i>“Declassified” or “Declassification” means the situation where a network element, including a network element referred to as a Lawful UNE under this Agreement, ceases to be a Lawful UNE under this Agreement because it is no longer required by Section 251(c)(3) of the Act, as determined by lawful and effective FCC rules and associated lawful and effective FCC and judicial orders. Without limitation, a Lawful UNE that has ceased to be a Lawful</i></p> | <p>Yes. The Interim Order adopted by the FCC on July 21, 2004 (rel. August 20, 2004) maintains the status quo that existed as of June 15, 2004 for the provision of unbundled network elements from SBC to Level 3. As of June 15, 2004, Level 3 was entitled to</p> | <p>(a) Yes. For the reasons set forth in connection with various UNE issues, SBC's references to "Declassified" and "Declassification" are appropriate and the terms should appear in the Agreement.</p> |

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| | | <p>UNEs?</p> <p>SBC Issue (a): Should the Commission adopt definitions of “Declassified” and “Declassification”?</p> <p>SBC Issue (b): If the answer to (a) is yes, should the definition of “Declassified” and “Declassification” take into account FCC rules and judicial orders regarding which network elements must be provided as UNEs?</p> | <p><i>UNE may also be referred to as “Declassified.”</i></p> | <p>receive unbundled network elements pursuant to the terms and conditions of the parties’ Interconnection Agreement that was approved by the Commission. Level 3 does not wish to waive its rights to obtain unbundled network elements pursuant to those existing terms and conditions.</p> <p>In addition, the FCC has held that Level 3 and SBC may not arbitrate new agreements until after the FCC adopts permanent rules for the provision of unbundled network elements: “Moreover, if the vacated rules were still in place, competing carriers could expand their contractual rights by seeking arbitration of new contracts, or by opting into other carriers’ new contracts. The interim approach adopted here, in contrast, does not enable competing carriers to do either.” ¶23. According to the FCC, “such litigation would be wasteful in light of the [FCC’s] plan to adopt new</p> | <p>(b) Yes. Given the history of court review of unbundling decisions and the likelihood that additional UNEs will be declassified in the future, the ICA should make clear that SBC is only required to unbundle network elements that are lawfully required to be unbundled under Section 251 at the time they are requested. Accordingly, SBC proposes the defined term “Lawful UNE” in the UNE Appendix to mean UNEs that are required under 251(c)(3), pursuant to valid FCC and judicial orders. Of course, introducing a defined term for when a UNE is properly required under the Agreement, means that there needs to be a corresponding term for when the UNE is no longer properly required, such as when the FCC, a court, or any other body with authority determines that the UNE is no longer required under applicable law -- hence the proposal of this defined term “Declassified” or “Declassification.” In the UNE</p> |

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| | | | | <p>permanent rules as soon as possible.” ¶17. The FCC recognizes that “the implementation of a new interim approach could lead to further disruption and confusion that would disserve the goals of section 251.”</p> <p>In light of the foregoing, Level 3 does not waive any rights to those UNEs to which it is entitled by agreeing to terms and conditions other than what is in its existing Interconnection Agreement. Level 3 will also oppose any effort by SBC to attempt to arbitrate UNEs in light of the FCC Interim Order.</p> <p>The dispute resolution process adopted by the Commission at the conclusion of this proceeding can be used by the parties to adjudicate the terms and conditions for SBC’s provision of UNEs after the FCC has issued revised rules.</p> | <p>Appendix, SBC’s proposed language explains the consequences of a UNE becoming declassified, and SBC refers to the position statements made in the UNE DPL for an explanation of its declassification position.</p> |
| DEF 5 | | Level 3 issue: Should | “Demarcation Point” is the point of demarcation and/or | Consistent with FCC orders and | Level 3 is improperly attempting |

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| | | <p>the Demarcation Point be defined consistent with the FCC’s definition and regulations?</p> <p>SBC Issue: Should the Demarcation Point serve as the legal, technical and financial boundary between the Parties networks?</p> | <p>interconnection between the communications facilities of a provider of wireline telecommunications, and terminal equipment, protective apparatus or wiring at a subscriber's premises. Demarcation Point defines the boundary between the Parties’ networks <u>for determining legal, technical and financial responsibility</u> for their respective facilities.</p> | <p>regulations, including 47 CFR 68.43, Level 3 proposes clearly articulating the fact that the Demarcation Point serves as the boundary line between the Parties’ network, but also the legal, technical and financial responsibilities. This is also consistent with the manner in which SBC’s tariff operates. Level 3 believes this clarification will remove confusion and possible litigation in the future, as it clearly draws a line where the two parties responsibilities end.</p> | <p>to expand the definition of "Demarcation Point" to delineate the parties' respective substantive legal, technical and financial rights and obligations. Language delineating the "boundary" for determining legal, technical and financial responsibilities of the parties is more appropriately included in specific substantive appendices, and is in fact already included in various appendices. Moreover, the rights and obligations of the respective parties will depend on the context in which the term "Demarcation Point" is being used. Level 3's language is overly simplistic. SBC's proposed language comports with the accepted, industry-wide accepted notion of what a "Demarcation Point" is.</p> |
| DEF 6 | | <p>Should the definition of DSX Panel be limited to only T1 lines, which is only one of the possible ways a Party can connect with the DSX Panel?</p> | <p>“Digital Cross Connect Panel” (DSX Panel) is a <u>cross-connect bay or panel used for the termination of equipment and facilities operating at digital rates</u> bay or panel to which T-1 lines and circuit packs are wired and that permits cross-connections by patch cords and plugs.</p> | <p>Level 3’s language, which represents language previously agreed to by SBC and incorporated into the Parties current ICA, accurately describes the function of the DSX Panel</p> | <p>SBC is not sure that a definition of this term is needed, as SBC has not been able to locate any use of the term in either the agreed-to or contested parts of the Agreement. In any event,</p> |

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| | | | | and is flexible enough not to preclude other methods of interconnection. | Level 3's language is vague and overbroad. SBC's language appropriately reflects how digital cross connect panels are used. |
| DEF 7 | | <p>Level 3 Issue: Should the Commission define an ISP according to MTS and WATS Market Structure Order, CC Docket No. 78-72, adopted in 1983, or should the commission adopt a more current statement of the law as adopted by the FCC?</p> <p>SBC Issue: Should the definition of Internet Service Provider include reference to paragraph 341 of the FCC's First Report and Order in Docket No. 97-158?</p> | <p>“Internet Service Provider” (ISP) is <u>defined consistent with the FCC in its Orders and regulations</u> <i>an Enhanced Service Provider that provides Internet Services and is defined in paragraph 341 of the FCC’s First Report and Order in CC Docket No. 97-158.</i></p> | <p>Level 3 notes that in the FCC’s First Report and Order in CC Docket No. 97-158 specifically incorporated by SBC, the FCC goes back to a definition of ISP that stems from the Modified final Judgment, adopted in 1983. Thus, SBC is asking this Commission to adopt a definition for ISP that is more than 20 years old. Level 3 believes that Commission should adopt a more flexible definition, which will allow for the incorporation of more recent FCC orders defining the term.</p> | <p>SBC’s language provides clarity to the definition for “Internet Service Provider” by referencing the specific paragraph of the FCC’s First Report and Order in CC Docket No. 97-158 where the definition is found.</p> <p>Level 3's issue description is confusing and misleading. SBC proposes a definition of ISP that was embraced by the FCC in a 1997 Order. The implication of Level 3's issue description that SBC is proposing an outdated definition from 1983 is not accurate.</p> |
| DEF 8 | | <p>Level 3 Issue: Should ISP-Bound Traffic be identified as originating as a call that originates on the circuit switched</p> | <p>“ISP-Bound Traffic” means traffic that is limited to telecommunications traffic exchanged between CLEC and SBC-I3STATE in accordance with the FCC’s Order on Remand Report and Order, In the Matter of Implementation of the Local Compensation Provisions in the Telecommunications Act of 1996,</p> | <p>(a) Level 3’s proposed language clarifies that ISP-Bound Traffic is originated as Circuit switched traffic terminating at an ISP customer of the other Party. This</p> | <p>Since SBC has invoked the FCC ISP Plan in several states, it must include a definition for ISP-Bound Traffic, in accordance with the FCC’s</p> |

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| | | <p>network and terminates to an Internet Service Provider?</p> <p>SBC Issue: Should the definition of "ISP-Bound Traffic" reference the FCC's ISP Compensation Order and be limited to certain physical locations of the end user and terminating ISP?</p> | <p>Intercarrier Compensation for ISP-Bound Traffic, FCC 01-131, CC Docket Nos. 96-98, 99-68 (rel. April, 27, 2001) ("FCC ISP Compensation Order"). <u>Accordingly, ISP-Bound Traffic shall mean Telecommunications Services Traffic exchanged between the Parties where the originating Customer of one Party places a Circuit Switched Traffic call over the circuit-switched network to an Internet Service Provider ("ISP") customer of the other Party.</u> <i>"ISP-Bound Traffic" is traffic in which the originating end user of one Party and the terminating ISP of the other Party are:</i></p> <p><i>(i) both physically located in the same SBC-13-STATE Local Exchange Area as defined by SBC-13STATE Local (or "General") Exchange Tariff on file with the applicable state commission or regulatory agency; or</i></p> <p><i>(ii) both physically located within neighboring SBC-13STATE Local Exchange Areas that are within the same common mandatory local calling area. This includes, but it is not limited to, mandatory Extended Area Service (EAS), mandatory Extended Local Calling Service (ELCS) or other types of mandatory expanded local calling scopes.</i></p> | <p>language is consistent with the language used in the FCC orders. It does not place a geographic limitation on the traffic, as SBC attempts to do.</p> | <p>Order.</p> <p>The FCC affirmed that ISP-bound traffic and local calls are communication between two parties that remain squarely in the same local calling area. This is illustrated in paragraph 90 of the ISP Compensation Order which specifically states that the FCC intended the same intercarrier compensation rates, terms and conditions to apply to voice and ISP-Bound Traffic. <i>See FCC ISP Compensation Order</i>, 16 FCC Rcd at 9194-95, ¶ 90. Additional detail regarding this position can be found throughout the Intercarrier Compensation DPL.</p> <p>Level 3's proposed definition suffers from the same infirmities as its several other attempts to insert "Circuit Switched" into the parties' Agreement. See Issues DEF 2 and ITR 2, 5, 13, 15 and 18.</p> |
| DEF 9 | | Level 3: Should the | <i>"Local/Access Tandem Switch" is defined as <u>an intermediate</u></i> | (a) No. Level 3 takes the | (a) Yes. This term is used |

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| | | <p>definition of "Local/Access Tandem Switch" also include a substantive provision that would require Level 3 to build duplicative interconnection trunks?</p> <p>SBC Issue (a): Should the Commission adopt a definition of "Local/Access Tandem Trunk "?</p> <p>SBC Issue (b): Should the definition of "Local/Access Tandem Switch" reflect that such switches are used for Section 251(b)(5)/ IntraLATA Traffic and IXC-carried traffic?</p> | <p><u>switch or connection between an originating telephone call location and the final destination of the call</u> a switching machine within the public switched telecommunications network that is used to connect and switch trunk circuits between and among other central office switches for Section 251(b)(5)/IntraLATA Traffic and IXC-carried traffic.</p> | <p>position throughout this arbitration that SBC has the obligation under Section 251 to interconnect its network for the exchange of traffic between the parties. SBC also has the obligation to interconnect in a manner that allows Level 3 to exchange traffic in a manner consistent with the manner in which SBC exchanges traffic with itself, its affiliates and any other party. This would include the obligation to allow for Level 3 to exchange all types of traffic over the local interconnection trunks and facilities of SBC, which SBC does for itself and other CLECs. By inserting in the definitions an aspect applying a "local" requirement, SBC is, in effect, prohibiting Level 3 from exchanging anything other than "local" traffic over these facilities. To the extent that the Commission agrees with Level 3 that it is able to carry all forms of traffic over the interconnection trunks and facilities, then SBC's proposed language is not</p> | <p>throughout various appendices, including the GTC Definitions and ITR Appendices, in both agreed-to and contested provisions. This term therefore should be defined.</p> <p>(b) SBC's network architecture includes tandems that have been provisioned to handle specific types of traffic. One of these types of tandems is a Local/Access Tandem. A Local/Access Tandem is provisioned to handle Section 251(b)(5)/IntraLATA and IXC carried traffic. It is important to define each type of tandem because not all of the tandem provisions within the contract apply to all the different types of tandems. Some provisions apply only to the Local/Access Tandem.</p> <p>Level 3 opposes defining <i>Local/Access Tandem Switch</i> at all (it would strip out "Local/Access" and merely define "Tandem Switch"), even though the term is used as agreed</p> |

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| | | | | <p>consistent with that determination, and must be rejected.</p> <p>To the extent that the Commission requires the Parties to define the tandem functionality, Level 3 has proposed its language, which is taken directly from Newton’s Telecom Dictionary, 15th Edition, commonly accepted within the telecommunications industry.</p> | <p>language in several places in the parties' Agreement, including in the GTC Definitions and the ITR Appendix.</p> <p>Moreover, Level 3's issue description is nonsensical. SBC's proposed definition does not create any substantive obligations; it simply defines a term.</p> |
| DEF 10 | | <p>Level 3: Should the definition of “Local Interconnection Trunk” also include a substantive provision that would require Level 3 to build duplicative interconnection trunks?</p> <p>SBC Issue (a): Should the Commission adopt a definition of “Local Interconnection Trunk Groups”?</p> | <p><i>“Local Interconnection Trunk Groups” are two-way trunk groups used to carry Section 251(b)(5)/IntraLATA Traffic only.</i></p> | <p>See Level 3 Position/Support for Issue DEF 9 above (Local/Access Tandem Switch)</p> | <p>(a) Yes. The term is used throughout various appendices, including the OET, NIM and ITR Appendices, in both agreed-to and contested provisions (including some provisions that Level 3 is advocating.) This term therefore should be defined.</p> <p>(b) SBC proposes a definition that is specific as to the types of traffic that can be delivered over these local trunk groups and only includes traffic types that both parties have been openly</p> |

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| | | <p>SBC Issue (b): If the answer to (a) is yes, should “Local Interconnection Trunk Groups” be defined as trunks used to carry Section 251(b)(5)/IntraLATA Traffic only?</p> | | | <p>negotiating. Because of recent system gaming to avoid appropriate access charges by the improper routing of InterLATA and IntraLATA Traffic carried by an IXC over Local Interconnection Trunk Groups, there is now a need to clearly define what constitutes various traffic types and what traffic should be permitted over these local trunk groups.</p> <p>Level 3 has not proposed any definition, despite the fact that the term is used in numerous agreed-to provisions in the ITR and OET Appendices, as well as provisions that Level 3 is advocating.</p> <p>Moreover, Level 3's issue description is nonsensical. SBC's proposed definition does not create any substantive obligations; it simply defines a term.</p> |
| DEF 11 | | <p>Level 3: Should the definition of “Local/IntraLATA Tandem Switch also include a substantive</p> | <p><i>“Local/IntraLATA Tandem Switch” is defined as a switching machine within the public switched telecommunications network that is used to connect and switch trunk circuits between and among subtending central office switches for Section</i></p> | <p>See Level 3 Position/Support for Issue DEF 9 above (Local/Access Tandem Switch)</p> | <p>(a) Yes. The term is used throughout the ITR Appendix, in both agreed-to and contested provisions. This term therefore should be defined.</p> |

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| | | <p>provision that would require Level 3 to build duplicative interconnection trunks?</p> <p>SBC Issue (a): Should the Commission adopt a definition of “Local/IntraLATA Tandem Switch”?</p> <p>SBC Issue (b): If the answer to (a) is yes, should the definition of “Local/IntraLATA Tandem Switch” reflect that such switches are used for Section 251(b)(5)/ IntraLATA Traffic?</p> | <p><i>251(b)(5)/IntraLATA Traffic.</i></p> | | <p>(b) Yes. Within SBC -13- STATE’s network architecture are tandems that have been provisioned to handle specific types of traffic. One of these types of tandems is a Local/IntraLATA Tandem. A Local/IntraLATA Tandem is provisioned to handle Section 251(b)(5) Traffic, ISP-Bound Traffic and IntraLATA traffic. It is important to define each type of tandem because not all the tandem provisions within the contract apply to all the different types of tandems. Some provisions apply only to the Local/IntraLATA Tandem.</p> <p>Level 3 has not proposed any definition, despite the fact that the term is used in numerous agreed-to provisions in the ITR and OET Appendices, as well as provisions that Level 3 is advocating.</p> <p>Moreover, Level 3’s issue description is nonsensical. SBC’s proposed definition does not</p> |

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| | | | | | create any substantive obligations; it simply defines a term. |
| DEF 12 | | <p>Level 3: Should the definition of “Local only Tandem Switch also include a substantive provision that would require Level 3 to build duplicative interconnection trunks?</p> <p>SBC Issue (a): Should the Commission adopt a definition of “Local Only Tandem Switch”?</p> <p>SBC Issue (b): If the answer to (a) is yes, should the definition of “Local Only Tandem Switch” reflect that such switches are used for Section 251(b)(5) and ISP-Bound Traffic?</p> | <p><i>“Local Only Tandem Switch” is defined as a switching machine within the public switched telecommunications network that is used to connect and switch trunk circuits between and among other central office switches for Section 251(b)(5) and ISP Bound Traffic.</i></p> | <p>See Level 3 Position/Support for Issue DEF 9 above (Local/Access Tandem Switch)</p> | <p>(a) Yes. The term is used throughout the OET and ITR Appendices, in both agreed-to and contested provisions. This term therefore should be defined.</p> <p>(b) Yes. One of the types of tandems in SBC 13-STATE (except in SBC California and SBC Nevada) network is a Local Only Tandem. A Local Only Tandem is provisioned to only handle Section 251(b)(5) traffic and ISP Bound Traffic. It is important to define each type of tandem because not all the tandem provisions within the contract apply to all the different types of tandems. Some provisions apply only to the Local Only Tandem.</p> <p>Level 3 has not proposed any definition, despite the fact that the term is used in numerous agreed-to provisions in the ITR and OET Appendices, as well as provisions that Level 3 is advocating.</p> |

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| | | | | | Moreover, Level 3's issue description is nonsensical. SBC's proposed definition does not create any substantive obligations; it simply defines a term. |
| DEF 13 | | <p>Level 3: Should the definition of “Local only Trunk Groups” also include a substantive provision that would require Level 3 to build duplicative interconnection trunks?</p> <p>SBC Issue: Should the definition of “Local Only Trunk Groups” reflect that such trunk groups are used for Section 251(b)(5) Traffic only?</p> | <p>“Local Only Trunk Groups” are two-way trunk groups used to carry <i>Section 251(b)(5) <u>Telecommunications Services</u></i> Traffic only.</p> | See Level 3 Position/Support for Issue DEF 9 above (Local/Access Tandem Switch) | Sections 251(b) and (c) address only the traffic exchanged between Level 3 and SBC-13STATE. Level 3’s proposed language would improperly allow for a commingling of non-251/252 traffic such as transit traffic. |
| DEF 14 | | <p>Level 3: Should the definition of “Local Tandem” also include a substantive provision that would require Level 3 to build duplicative interconnection trunks?</p> <p>SBC Issue (a): Should</p> | <p>“Local Tandem” refers to any <i>Local Only, Local/IntraLATA, Local/Access or Access Tandem Switch serving a particular LCA (defined below)</i>.</p> | See Level 3 Position/Support for Issue DEF 9 above (Local/Access Tandem Switch) | <p>(a) Yes. The term is used throughout the NIM, IC and ITR Appendices, in both agreed-to and contested provisions (including some provisions that Level 3 is advocating.) This term therefore should be defined.</p> <p>(b) Yes. Within SBC 13-STATE’s</p> |

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| | | <p>the Commission adopt a definition of “Local Tandem”?</p> <p>SBC Issue (b): If the answer to (a) is yes, should the definition of “Local Tandem” include any Local Only, Local/IntraLATA, Local/Access or Access Tandem Switch, as defined, serving a particular LCA?</p> | | | <p>network architecture there are tandems that have been provisioned to handle specific types of traffic. Among these types of tandems are Local Only, Local/IntraLATA and Local/Access Tandems. Each of these tandems are provisioned to handle Section 251(b)(5) and ISP-Bound Traffic. This term is used to easily combine all three of these tandem types into a term that can be easily used throughout the contract.</p> <p>Level 3 has not proposed any definition, despite the fact that the term is used in numerous agreed-to provisions in the NIM, IC and ITR Appendices, as well as provisions that Level 3 is advocating.</p> <p>Moreover, Level 3's issue description is nonsensical. SBC's proposed definition does not create any substantive obligations; it simply defines a term.</p> |
| DEF 15 | | Should "Network Inter-connection Methods" be | “Network Interconnection Methods” (NIMs) include, but are not limited to, Physical Collocation Interconnection; Virtual Collocation | During the course of the Agreement’s terms, there may be | Definitions are meant to provide clarity within the context of this |

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| | | limited to the specific methods set forth in the parties' Agreement and those mutually agreed to by the parties, or should the definition include other methods recognized by Applicable Law, as defined? | Interconnection; Leased Facilities Interconnection; Fiber Meet Interconnection; and other methods as mutually agreed to by the Parties <u>or according to Applicable Law.</u> One or more of these methods may be used to effect the Interconnection. | an occasion where either the legislature or the Commissions will modify the regulatory world in such a way that it is considered to qualify under the definition of “Applicable Law”. Level 3’s proposed language merely incorporates and acknowledges the existence of such events, and clarifies that the Parties are obligated to incorporate any methods of interconnection captured in such modifications. Level 3 does not want the parties to waive by default their ability to incorporate into this Agreement and operate pursuant to such methods. | Agreement. References to "applicable law" are vague and can create additional, unnecessary disputes. If an intervening law alters the rights of one or both of the parties, either party may invoke the change of law provisions in the General Terms and Conditions Appendix. |
| DEF 16 | | Should the definition of “Out of Exchange LEC” include a reference to a successor-in-interest to SBC? | “Out of Exchange LEC” (OE-LEC) means <u>LEVEL 3</u> operating within <u>in areas where SBC-13STATE’s or its successor in interest’s is defined as an ILEC pursuant to Section 251(h) of the Act incumbent local exchange area</u> and providing telecommunications services utilizing NPA-NXXs identified to reside in a Third Party Incumbent LEC’s local exchange area. | Level 3 is concerned of the event that SBC sells off its ILEC operations in a particular service area, and the impact that would have on the ability of Level 3 to continue its operation in those areas. Level 3 proposes to define the OET obligation according to Section 251(h) of the Act which would require that OET | Level 3's proposed inclusion of "or its successor in interest's" is unnecessary and confusing. |

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| | | | | <p>obligations survive sale of an exchange because they apply regardless of whether ownership of an exchange changes.</p> | |
| DEF 17 | | <p>(a) Should the definition of “Out of Exchange Traffic” include all Telecommunications Traffic, as defined, or be limited to “Section 251(b)(5) Traffic,” “InterLATA Section 251 (b)(5) traffic” and “ISP-bound traffic,” as defined?</p> <p>(b) Should the definition of “Out of Exchange Traffic” include IP-Enabled Services?</p> <p>(c) Should the definition of “Out of Exchange Traffic” include Transit Traffic?</p> | <p>“Out of Exchange Traffic” is defined as <u>Telecommunications Services, IP-enabled Services, Section 251 (b)(5) Traffic</u>, ISP-bound traffic, and <u>transit traffic, InterLATA Section 251 (b)(5) traffic, and including any such traffic</u> exchanged pursuant to an FCC approved or court ordered InterLATA boundary waiver, or intraLATA traffic to or from a non-SBC ILEC exchange area.</p> | <p>The Agreement should not make any reference to “section 251(b)(5) Traffic”, as that phrase is not defined in any FCC Order or regulation. Level 3’s proposed use of the term “Telecommunications Traffic” is defined in the federal Act, and should be incorporated into the Agreement.</p> <p>(b) Yes, the Agreement should include reference to “IP-Enabled Traffic”. From a practical perspective, what is the impact of SBC’s proposed language? In fact, adoption of SBC’s proposed language will result in Level 3 being blocked from exchanging this form of traffic with SBC. SBC has a duty under Section 251 to exchange all forms of traffic with telecommunications carriers, not selective forms of traffic with certain carriers.</p> | <p>(a) SBC’s definition more accurately reflects the type of traffic exchanged between the parties. SBC proposes to define the types of traffic addressed by Appendix Out of Exchange Traffic with more specificity than merely “telecommunications services.” This Appendix should clearly identify the type of traffic to which it applies in order to avoid later disputes.</p> <p>(b) For a discussion of SBC's opposition to the term "IP-enabled traffic," see <i>inter alia</i> its discussion of Section 3.2 <i>et seq.</i> of the IC Appendix.</p> <p>(c) Level 3’s reference to Transit traffic should be rejected because this issue is not arbitrable because neither Section 251, nor any other provision of the Act,</p> |

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| | | | | <p>(c) Yes, the definition should include reference to Transit Traffic. Section 251 mandates that SBC interconnect its network to all other telecommunications carriers, either directly or indirectly. Level 3 believes that includes the exchange of Transit Traffic. Level 3’s proposed language in this definition clarifies, consistent with Level 3’s position, that SBC will exchange Transit Traffic that falls under the Out of Exchange Traffic definition.</p> | <p>requires ILECs to provide transit service.</p> |
| DEF 18 | | <p>(a) Should the Commission adopt a definition of “Section 251(b)(5) Traffic”?</p> <p>(b) If the answer to (a) is yes, should “Section 251(b)(5) Traffic” be limited to certain physical locations of the originating and terminating end users?</p> | <p><i>“Section 251(b)(5) Traffic” means traffic that is limited to telecommunications traffic exchanged between CLEC and SBC-13-STATE in which the originating end user of one Party and the terminating end user of the other Party are:</i></p> <p><i>(i) both physically located in the same SBC-13STATE Local Exchange Area as defined by SBC-13STATE Local (or “General”) Exchange Tariff on file with the applicable state commission or regulatory agency; or</i></p> <p><i>(ii) both physically located within neighboring SBC-13STATE Local Exchange Areas that are within the same common mandatory local calling area. This includes, but it</i></p> | <p>(a) No. It is not reasonable to include in the Agreement SBC’S attempt to create and insert a definition for “Section 251(b)(5) Traffic”. First, the proposed term is not defined in any FCC order or regulation. Rather, it is SBC’s interpretation of the Act and FCC actions, to which Level 3 neither agrees nor accepts in the Agreement. SBC’s crafting of a self-serving definition and</p> | <p>(a) Yes. This term should be defined. It is used at various points in the ITR, NIM and IC appendices of the Agreement that SBC advocates be adopted and the same reasons why those provisions should be adopted necessarily support adopting a definition for the term.</p> <p>(b) "Section 251 (b)(5) traffic" is more precise than "Local</p> |

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| | | | <p><i>is not limited to, mandatory Extended Area Service (EAS), mandatory Extended Local Calling Service (ELCS) or other types of mandatory expanded local calling scopes.</i></p> | <p>attempting to argue that the definition should be used throughout the Agreement is improper.</p> | <p>traffic" since SBC has invoked the FCC ISP Plan in several states. Under the FCC's ISP Compensation Order, the FCC utilizes the term Section 251 (b)(5) rather than Local traffic.</p> <p>In addition, since SBC has invoked the FCC ISP Plan, it must include a definition for ISP-Bound Traffic, in accordance with the FCC's Order</p> <p>The FCC affirmed that ISP-bound traffic and local calls are communication between two parties that remain squarely in the same local calling area. This is illustrated in paragraph 90 of the ISP Compensation Order which specifically states that the FCC intended the same intercarrier compensation rates, terms and conditions to apply to voice and ISP-Bound Traffic. See FCC ISP Compensation Order, 16 FCC Rcd at 9194-95, ¶ 90. Additional detail regarding this position can be</p> |

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| | | | | | found throughout the Inter-carrier Compensation DPL. |
| DEF 19 | | <p>Level 3: Whether SBC should be permitted to inflate definition with language that is and should remain in its tariffs.</p> <p>SBC Issue: Should the definition of “Switched Access Service” describe the means by which a two-point communications path between a customer's premises and an end user's premises is established or simply reference a tariff?</p> | <p>“Switched Access Service” means an offering of facilities for the purpose of the origination or termination of traffic from or to Exchange Service customer in a given area pursuant to a Switched Access tariff provides a two-point communications path between a customer's premises and an end user's premises through the use of common terminating, common switching, Switched Transport facilities, and common subscriber plant of the Telephone Company. Switched Access Service provides for the ability to originate calls from an end user's premises to a customer's premises, and to terminate calls from a customer's premises to an end user's premises in the LATA where service is provided. Switched Access Services include: Feature Group A, Feature Group B, Feature Group D, 800 Series, and 900 access. Switched Access does not include traffic exchanged between LECs for purpose of local exchange interconnection.</p> | <p>Switched Access refers to the connection between a phone and a long distance carrier’s POP when a customer makes a call over regular phone lines. Newton’s Telecom Dictionary, 15th Ed. SBC’s proposed language is derived directly from its Switched Access Tariff, which governs services to which Level 3 is not purchasing. It is unnecessary to burden this Agreement with superfluous tariff language. Level 3’s proposed language is consistent with industry standards, and the more reasonable approach for the Commission to adopt.</p> | <p>SBC's proposed definition is consistent with FCC orders and regulations defining "Switched Access Service," and should therefore be adopted. Level 3's definition is vague and likely to lead to future disputes between the parties.</p> |
| DEF 20 | | <p>Level 3: Whether a next generation carrier using distributed switching facilities can accurately define a trunk group as a connection to a “switch” when what actually happens is connection to</p> | <p>“Trunk” or “Trunk Group” means the switch port interface(s) used and the communications path created to connect Level 3’s network switch with SBC-13STATE’s network switch for the purpose of exchanging traffic.</p> | <p>Level 3’s network is a state-of-the-art, next generation network that does not operate in the same manner as the legacy circuit switched network used by SBC. As such, the legacy terms developed in conjunction with the circuit switched network are</p> | <p>Level 3’s proposed definition confuses facilities used to connect the networks of Level 3 and SBC-13STATE with the trunks that connect switches. Trunks connect the various switches of SBC's network to the switches of Level 3's network.</p> |

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| | | <p>a “network” that ultimately provides that switching functionality.</p> <p>SBC Issue: Should the definition of "Trunk" and "Trunk Group" refer to connection of the parties' "network" or to connection of their "switch"?</p> | | <p>outdated and inaccurate. The disputed language is a prime example of that outdated term. Level 3’s “switch” does not connect to SBC’s Trunk or Trunk Group. Rather, Level 3’s network does. SBC’s attempt to define Trunk base don its historic, legacy terms is inapplicable in the context of the next-generation technology employed by Level 3.</p> | <p>Facilities according to the FCC in the FRO “refers only to the physical linking of two networks for the mutual exchange of traffic.”</p> <p>Trunks or trunk groups therefore, do not connect networks, but in fact, connect switches over the facilities established to connect those networks.</p> |
| DEF 21 | | <p>Level 3 Issue (a): In light of the fact that the FCC recognizes that ISP bound traffic should not be rated with regard to geography, should the Commission adopt a definition for federal information access traffic that specifically relies upon the geographic locations contained in and defined by state-approved local exchange tariffs?</p> <p>Level 3 Issue (b):</p> | <p><u>“Virtual NXX Traffic” is traffic that originates in one local exchange area and is dialed to a telephone number assigned to a customer who is not physically located in the rate center to which the NXX code of that telephone number has been assigned. This traffic is also sometimes referred to as “Virtual Foreign Exchange”, FX type, or “Virtual FX” traffic.</u></p> <p><i>“Virtual Foreign Exchange (FX) Traffic” and “FX-type Traffic” shall refer to those calls delivered to telephone numbers that are rated as local to the other telephone numbers in a given mandatory local calling area, but where the recipient end user’s station assigned that telephone number is physically located outside of that mandatory local calling area. Virtual FX Service also permits an end user physically located in one exchange to be assigned telephone numbers resident in the serving Central (or End) Office in another, foreign,” exchange, thereby creating a local presence in the “foreign” exchange. Virtual FX Service differs from Dedicated FX</i></p> | <p>(a) No, the definition for Virtual NXX Traffic should not include language that imposes a geographic element on this type of traffic. The FCC has been clear that NXX Traffic, including the type at issue in this definition, cannot be rated based upon the geographic location of the calling parties. SBC’s attempt to do so is in direct conflict with the FCC’s determinations.</p> <p>(b) Yes. In accordance with the industry standard that has been in place for a number of years,</p> | <p>(a) Yes. SBC’s definitions for Virtual Foreign Exchange Traffic and FX-type Traffic accurately describes the call flow between the parties that constitutes FX Service. Level 3’s definition does not include any references to Dedicated FX Services and excludes any reference to the Commission prescribed mandatory local calling area which is fundamental for defining the jurisdiction of a call and its associated intercarrier compensation.</p> <p>(b) Yes. Since the actual use of</p> |

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| | | <p>Should the definition of Virtual NXX be based upon the NPA-NXX of the calling parties?</p> <p>SBC Issue (a): Should Virtual Foreign Exchange Traffic, Virtual NXX Traffic and FX-Type Traffic be defined as traffic delivered to telephone numbers that are rated as local but routed outside of that mandatory local calling area?</p> <p>SBC Issue (b): Should "FX Telephone Numbers" be defined as telephone numbers with different rating and routing points relative to a given mandatory local calling area?</p> | <p><i>Service, however, in that Virtual FX end users continue to draw dial tone or are otherwise served from a Central (or End) Office which may provide service across more than one Commission-prescribed mandatory local calling area, whereas Dedicated FX Service end users draw dial tone or are otherwise served from a Central (or End) Office located outside their mandatory calling area.</i></p> <p><i>“FX Telephone Numbers” (also known as “NPA-NXX” codes) shall be those telephone numbers with different rating and routing points relative to a given mandatory local calling area. FX Telephone Numbers that deliver second dial tone and the ability for the calling party to enter access codes and an additional recipient telephone number remain classified as Feature Group A (FGA) calls, and are subject to the originating and terminating carrier’s tariffed Switched Exchange Access rates (also known as “Meet Point Billed” compensation), or if jointly provisioned FGA service.</i></p> | <p>Virtual NXX Traffic must be rated based upon the NPA-NXX of the calling parties. This is also in complete accord with FCC determinations, as well as number of state commission orders. SBC’s proposed reliance on the geographic location of the calling parties is a radical departure of the current industry standard. Further, SBC’s proposed reliance on the geographic location of the calling parties is not practical, as neither party has the capability of knowing the exact physical location of calling parties when using IP-Enabled services. That is one of the most basic benefits of advanced forms of technology, that a calling party is not restricted to a single geographic area.</p> | <p>the FX Telephone Number determines the associated compensation regime between the Parties (i.e., FX Telephone Numbers that deliver second dial tone are subject to the originating and terminating carrier’s tariffed Switched Exchange Access rates), this differentiation is needed in the definition section to avoid future billing disputes.</p> |