

July 21, 2011

FILED/ACCEPTED

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Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

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JUL 21 2011

Federal Communications Commission  
Office of the Secretary

Re: *Global Crossing Limited and Level 3 Communications Inc., Application for Consent to Transfer Control of Authority to Provide Global Facilities-Based and Global Resale International Telecommunications Services and of Domestic Common Carrier Transmission Lines, Pursuant to Section 214 of the Communications Act, as Amended, IB Docket No. 11-78*

Dear Ms. Dortch:

Level 3 respectfully requests that pursuant to Sections 0.457 and 0.459 of the Commission's rules, 47 C.F.R. § 0.457, 0.459, the Commission withhold from any future public inspection and accord confidential treatment to the attached response. This document contains sensitive commercial and financial information that falls within Exemption 4 of the Freedom of Information Act (FOIA), 5 U.S.C. § 552(b)(4). In the event that the Commission subsequently issues a protective order in this proceeding, Level 3 seeks "confidential" rather than "highly confidential" protection with respect to this information.

Exemption 4 of FOIA provides that the public disclosure requirement of the statute "does not apply to matters that are . . . (4) trade secrets and commercial or financial information obtained from a person and privileged or confidential." 5 U.S.C. § 552(b)(4). Because Level 3 is voluntarily providing commercial information "of a kind that would not customarily be released to the public," this information is "confidential" under Exemption 4 of FOIA. See *Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879 (D.C. Cir. 1992).

In support of this request and pursuant to Section 0.459(b) of the Commission's rules, Level 3 hereby states as follows:

**1. Identification of Specific Information for Which Confidential Treatment Is Sought (Section 0.459(b)(1))**

Level 3 seeks confidential treatment with respect to the portions of its comments, filed jointly with Global Crossing Limited, including the supporting declarations, detailing the amount of Internet traffic carried by Level 3.

**2. Description of Circumstances Giving Rise to the Submission (Section 0.459(b)(2))**

The amount of Level 3's Internet traffic delivered to its North American customers or from its North American network is not ordinarily made public. As such, it contains data not publicly available that could be of assistance to Level 3's competitors

**3. Explanation of the Degree to Which the Information Is Commercial or Financial, or Contains a Trade Secret or Is Privileged (Section 0.459(b)(3))**

The portions of the report for which confidential treatment is sought contain sensitive commercial information "which would customarily be guarded from competitors." 47 C.F.R. § 0.457. Level 3 does not make this information available outside of non-disclosure agreements.

**4. Explanation of the Degree to Which the Information Concerns a Service that Is Subject to Competition (Section 0.459(b)(4))**

The market for Internet connective, including services provided by Internet backbones, is highly competitive.

**5. Explanation of How Disclosure of the Information Could Result in Substantial Competitive Harm (Section 0.459(b)(5))**

Disclosure of the information could enable a competitor to gain insight into the amount of traffic handled by Level 3 and the extent to which that traffic is from Level 3 customers.

**6. Identification of Any Measures Taken to Prevent Unauthorized Disclosure (Section 0.459(b)(6))**

Level 3 does not make this information available except under non-disclosure agreements.

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**7. Identification of Whether the Information Is Available to the Public and the Extent of Any Previous Disclosure of the Information to Third Parties (Section 0.459(b)(7))**

The redacted information in the reports is not and has not previously been publicly disclosed.

Sincerely,



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Attachment