

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

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Investigation by the Department of	)	
Telecommunications and Energy on its own	)	D.T.E. 06-33
Motion to Develop a Long Term Plan	)	
for Funding Enhanced 911 Services	)	
	)	

**REPLY COMMENTS OF LEVEL 3 COMMUNICATIONS, LLC**

Level 3 Communications, LLC (“Level 3”) submits these comments in D.T.E. 06-33 in response to the proposals that were submitted on July 28 and the initial comments filed on August 25, 2006 concerning recommendations for the appropriate long term funding mechanism of the Massachusetts E911 system.

Level 3 is principally a wholesale provider of communications services to bandwidth intensive customers and Internet Protocol (“IP”) based resellers. Among the services that Level 3 provides are wholesale voice over IP (“VoIP”) services to enhanced service provider (“ESP”) customers, who in turn offer retail VoIP services to end users. Some of Level 3’s wholesale VoIP services also include E911 support. Because of the well-established importance of the 911 system, Level 3 concurs with the proposals and comments that recommend including those VoIP services that utilize the E911 system in the funding requirements for E911 in Massachusetts. In fact, Level 3 committed to supporting E911 for its wholesale interconnected VoIP services well in advance of the FCC mandate for VoIP E911, including the payment of applicable surcharges necessary to support the cost of operating the 911 network.

As a wholesale provider of VoIP services committed to providing appropriate financial support to the 911 network in a developing legal and regulatory environment, Level 3 faces many challenges. Level 3 has established a large interconnected 911 infrastructure to support its ESP customers 911 needs. Typically, when a telecommunications carrier establishes its 911 interconnection it is required to commit to paying established surcharges. Very often the surcharge regime does not contemplate whether a provider is a wholesale provider and simply assumes it provides retail services directly to end-users. Reconciling the legacy 911 funding regimes that are dependant upon established regulatory definitions and treatments with newly developed laws that aim to stay ahead of the technological curve that is unfolding in the communications industry can be difficult for both carriers supporting VoIP and for their VoIP provider customers. Unless legislators reconcile the historical funding regime for telecommunications carriers with new legislation intended to capture interconnected VoIP providers, there will almost inevitably be conflict or confusion between the two. Level 3 believes that implementing a single 911 surcharge for all carriers/providers on each end-user “line” as suggested by the Attorney General in its comments would go along way toward ensuring the financial stability of the 911 system. Additionally, it is important to explicitly allow providers to enter into commercial arrangement where underlying network, wholesale, or third party providers can remit on behalf of retail provider customers as Verizon suggests in its comments.

Level 3 concurs with AT&T’s clarification that its “support for expanding the E911 surcharge to include VoIP customers for this limited purpose is not an acknowledgement” of broader state level jurisdiction to regulate VoIP services but does

believe that it is important to develop clear rules to ensure adequate funding of the 911 system remains in place nevertheless. VoIP end-users who have the capability to place 911 calls should expect to help cover the costs of operating the system. The most effective funding mechanism will be one that is readily implemented and easily complied with. If rules are put in place that do not adequately account for wholesale business models or contain different rates for different classifications of services (e.g. business, residential, VoIP, telecommunications, retail, etc...) or are overly complex, the likelihood that 911 funding falls short increases. Level 3 submits that a regime that establishes a common rate for a surcharge on each end-user capable utilizing the 911 system while allowing providers to establish commercial arrangements to remit applicable surcharges on their behalf would be the most effective and efficient 911 funding structure for Massachusetts.

Respectfully submitted:

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