

Regulatory and  
Governmental Affairs



601 Monroe Street, Suite 304  
Jefferson City, MO 65101  
Fax 573.636.6826

May 10, 2002

**FILED**

**MAY 10 2002**

Mr. Dale Hardy Roberts  
Secretary/Chief Administrative Law Judge  
Missouri Public Service Commission  
200 Madison Street, Suite 100  
Jefferson City, Missouri 65101

**Missouri Public  
Service Commission**


Subject: ADOPTION BY LEVEL 3 COMMUNICATIONS, LLC OF THE  
GTE MIDWEST, INCORPORATED D/B/A VERIZON  
MIDWEST/PREFERRED CARRIER SERVICES, INC. D/B/A  
PHONES FOR ALL AND TELEFONOS PARA TODOS  
INTERCONNECTION AGREEMENT, PURSUANT TO  
SECTION 252(i) OF THE TELECOMMUNICATIONS ACT  
OF 1996

Dear Mr. Roberts:

Enclosed for filing with the Commission are the original and eight (8) copies of GTE Midwest, Incorporated d/b/a Verizon Midwest's Notice of Adoption of Interconnection Agreement ("Notice of Adoption"). This Notice of Adoption pertains to the adoption by Level 3 Communications, LLC of the previously-approved interconnection Agreement between Verizon Midwest and Preferred Carrier Services, Inc. d/b/a Phones For All and Telefonos Para Todos. As directed by the Commission on January 4, 1999, an original and five (5) copies of the approved Underlying Agreement are enclosed with this filing.

Thank you for your assistance in this matter.

Sincerely,

  
Thomas R. Parker  
Vice President &  
Associate General Counsel

TRP:am

Enc.

c: Service List

FILED

BEFORE THE PUBLIC SERVICE COMMISSION

MAY 10 2002

OF THE STATE OF MISSOURI

Missouri Public  
Service Commission

THE MATTER OF THE ADOPTION OF THE GTE )  
MIDWEST INCORPORATED D/B/A VERIZON MIDWEST/ )  
PREFERRED CARRIER SERVICES, INC. D/B/A PHONES ) CASE NO.  
FOR ALL AND TELEFONOS PARA TODOS )  
INTERCONNECTION AGREEMENT BY LEVEL 3 )  
COMMUNICATIONS, LLC, PURSUANT TO SECTION )  
252(i) OF THE TELECOMMUNICATIONS ACT OF 1996 )

**NOTICE OF ADOPTION OF INTERCONNECTION AGREEMENT**

COMES NOW, GTE Midwest Incorporated d/b/a Verizon Midwest ("Verizon"), respectfully files this Notice of Adoption of Interconnection Agreement ("Notice of Adoption") as permitted by 4 CSR 240-2.080 (3).<sup>1</sup> In connection with this filing, Verizon states as follows:

1. Verizon is engaged in the business of providing local, access, toll and other telecommunications services. The principal office of Verizon is 601 Monroe Street, Suite 304, Jefferson City, Missouri 65101.

The designated contact for purposes of the above-captioned, adopted Agreement is:

Dave Evans  
Director-Regulatory Affairs  
Verizon  
601 Monroe Street, Suite 304  
Jefferson City, MO 65101  
Telephone: 573-636-7196  
Fax: 573-636-6826  
e-mail: [dave.evans@verizon.com](mailto:dave.evans@verizon.com)

<sup>1</sup> Verizon is filing this Notice of Adoption consistent with the manner approved by the Commission in Case Nos. TO-2000-756, -757 and -758.

2. Pursuant to Section 252(i) of the Telecommunications Act of 1996 (the "Federal Act"), Level 3 Communications, LLC ("Level 3") notified Verizon that it desired to adopt the terms of the Interconnection Agreement ("Terms") between Verizon and Preferred Carrier Services, Inc. d/b/a Phones For All and Telefonos Para Todos ("PCS") approved by the Missouri Public Service Commission ("Commission") in Case Number TO-2002-166 ("Underlying Agreement"). Subsequent to this, Verizon and Level 3 signed a short cover letter relating to Level 3's adoption of the Terms. A copy of said cover letter is attached to this filing as Attachment 1.

3. Section 252(i) of the Federal Act provides as follows:

(i) AVAILABILITY TO OTHER TELECOMMUNICATIONS CARRIERS.-

A local exchange carrier shall make available any interconnection services, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and condition as those provided in the agreement.

A copy of the Commission's November 26, 2001 Order approving the Underlying Agreement is attached hereto as Attachment 2. A copy of the approved Underlying Agreement between Verizon and PCS, for adoption by Level 3, is attached as Attachment 3. As described in the Order, the Commission approved the Underlying Agreement pursuant to Section 252(e) of the Federal Act by finding that it was consistent with the public interest, convenience and necessity and did not discriminate against any telecommunications carrier. Furthermore, the Commission found that the Underlying Agreement was consistent with Missouri Senate Bill No. 507, which became effective on

August 28, 1996. Accordingly, the Terms are adopted by Level 3 and will apply to Level 3 and Verizon pursuant to Section 252(i) of the Act.

Verizon is not voluntarily entering the Terms with Level 3 and does not waive any rights and/or remedies it has concerning its position as to the illegality or unreasonableness of the Terms. Verizon contends that certain provisions of the Terms may be void or unenforceable as a result of the United States Eighth Circuit Court of Appeals' July and October 1997 decisions, the Supreme Court of the United States' decision of January 25, 1999 and the remand of the pricing rules to the United States Eighth Circuit Court of Appeals and U.S. Supreme Court. Verizon is preserving its legal positions in every respect as to the Terms in the hands of Level 3, as well as in the hands of PCS. Subject to Verizon's reservation of rights set forth in the letter between the Parties (copy attached as Attachment 1), there are no outstanding issues between Verizon and Level 3 relating to such adoption.

WHEREFORE, Verizon respectfully submits this Notice of Adoption of Interconnection Agreement and requests that the Commission take notice of such adoption pursuant to its authority to regulate telecommunications carriers in the state of Missouri.

Respectfully submitted,

GTE MIDWEST INCORPORATED  
d/b/a Verizon Midwest

By:   
Thomas R. Parker, Bar #0028806  
601 Monroe Street, Suite 304  
Jefferson City, MO 65101-3202  
TEL (972) 718-6361  
FAX (972) 718-3403  
e-mail: tom.parker@verizon.com

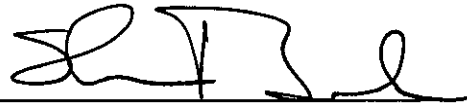
THEIR ATTORNEY

**VERIFICATION**

I, Steve Banta, under penalty of perjury, certify as follows:

I am an Officer of the Company – President of GTE Midwest Incorporated d/b/a Verizon Midwest. I am authorized to make this verification on behalf of GTE Midwest Incorporated d/b/a Verizon Midwest. I have read the foregoing "Notice of Adoption of Interconnection Agreement" and know the contents thereof, and the facts stated therein are true and correct to the best of my knowledge, information and belief.

Executed in the State of Missouri on this 10<sup>th</sup> day of May, 2002.

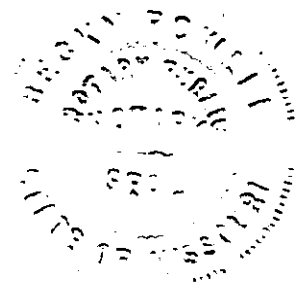


Steve Banta  
President  
GTE Midwest Incorporated  
d/b/a Verizon Midwest

Sworn before me and subscribed in my presence by Steve Banta this 10<sup>th</sup> day of May, 2002.

  
Notary Public

BECKY POWELL  
NOTARY PUBLIC, STATE OF MISSOURI  
COUNTY OF COLE  
MY COMMISSION EXPIRES MAY 8, 2005




## CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document was hand-delivered to Dale Hardy Roberts, Secretary/Chief Administrative Law Judge, Missouri Public Service Commission, 200 Madison Street, Suite 100, Jefferson City, Missouri 65101 and was mailed, postage prepaid, this 10<sup>th</sup> day of May, 2002 to the following:

Office of the Public Counsel  
200 Madison Street  
Jefferson City, MO 65101

Dana K. Joyce, General Counsel  
Missouri Public Service Commission  
200 Madison Street, 5<sup>th</sup> Floor  
Jefferson City, MO 65101

Michael Romano  
Director-State Regulatory Affairs  
Level 3 Communications, LLC  
1025 Eldorado Blvd.  
Broomfield, CO 80021



Alane Miller

Steven J. Pitterle  
Director - Negotiations  
Network Services

The Verizon logo, featuring a checkmark-like symbol above the word "verizon" in a bold, sans-serif font.

600 Hidden Ridge HQE03B67  
P.O. Box 152092  
Irving, Texas 75038

Phone 972/718-1333  
Fax 972/718-1279  
steve.pitterle@verizon.com

March 29, 2002

Mr. Kevin Paul  
VP Global Softswitch Deployment  
Level 3 Communications, LLC  
1025 Eldorado Blvd.  
Broomfield, CO 80021

Re: Requested Adoption Under Section 252(i) of the TA96

Dear Mr. Paul:

GTE Midwest Incorporated, d/b/a Verizon Midwest ("Verizon"), has received your letter stating that, under Section 252(i) of the Telecommunications Act of 1996 (the "Act"), Level 3 Communications, LLC ("Level 3") wishes to adopt the terms of the Interconnection Agreement between Preferred Carrier Services, Inc. d/b/a Phones For All and Telefonos Para Todos ("PCS") and Verizon that was approved by the Missouri Public Service Commission (the "Commission") as an effective agreement in the State of Missouri, as such agreement exists on the date hereof after giving effect to operation of law (the "Terms"). I understand Level 3 has a copy of the Terms. Please note the following with respect to Level 3's adoption of the Terms.

1. By Level 3's countersignature on this letter, Level 3 hereby represents and agrees to the following three points:
  - (A) Level 3 adopts (and agrees to be bound by) the Terms of the PCS/Verizon agreement for interconnection as it is in effect on the date hereof after giving effect to operation of law, and in applying the Terms, agrees that Level 3 shall be substituted in place of Preferred Carrier Services, Inc. d/b/a Phones For All and Telefonos Para Todos and PCS in the Terms wherever appropriate.



- (B) Notice to Level 3 and Verizon as may be required under the Terms shall be provided as follows:

To: Level 3 Communications, LLC  
Attention: Mr. Michael Romano  
Director – State Regulatory Affairs  
1025 Eldorado Blvd.  
Broomfield, CO 80021  
Telephone number: 720-888-7015  
FAX number: 720-888-5134

To Verizon:

Director-Contract Performance & Administration  
Verizon Wholesale Markets  
600 Hidden Ridge  
HQEWMNOTICES  
Irving, TX 75038  
Telephone Number: 972-718-5988  
Facsimile Number: 972-719-1519  
Internet Address: [wmnotices@verizon.com](mailto:wmnotices@verizon.com)

with a copy to:

Vice President and Associate General Counsel  
Verizon Wholesale Markets  
1515 N. Court House Road  
Suite 500  
Arlington, VA 22201  
Facsimile: 703-351-3664

- (C) Level 3 represents and warrants that it is a certified provider of local telecommunications service in the State of Missouri, and that its adoption of the Terms will cover services in the State of Missouri only.
2. Level 3's adoption of the PCS arbitrated Terms shall become effective as of the date of the Commission's final order approving the adoption. Verizon shall file this adoption letter with the Commission promptly upon receipt of an original of this letter countersigned by an authorized officer of Level 3. The term and termination provisions of the PCS/Verizon agreement shall govern Level 3's adoption of the Terms. The adoption of the Terms is currently scheduled to expire on August 21, 2003.
  3. As the Terms are being adopted by you pursuant to your statutory rights under section 252(i), Verizon does not provide the Terms to you as either a voluntary or negotiated agreement. The filing and performance by Verizon of the Terms does not in any way constitute a waiver by Verizon of any position as to the Terms or a

portion thereof, nor does it constitute a waiver by Verizon of all rights and remedies it may have to seek review of the Terms, or to seek review in any way of any provisions included in these Terms as a result of Level 3's 252(i) election.

4. On January 25, 1999, the Supreme Court of the United States ("Court") issued its decision on the appeals of the Eighth Circuit's decision in *Iowa Utilities Board*. Specifically, the Supreme Court modified several of the FCC's and the Eighth Circuit's rulings regarding unbundled network elements and pricing requirements under the Act. *AT&T Corp. v. Iowa Utilities Board*, 119 S. Ct. 721 (1999). Certain provisions of the Terms may be void or unenforceable as a result of the Court's decision of January 25, 1999, the United States Eighth Circuit Court of Appeals' decision in Docket No. 96-3321 regarding the FCC's pricing rules, and the current appeal before the U.S. Supreme Court regarding the FCC's new UNE rules. Moreover, nothing herein shall be construed as or is intended to be a concession or admission by Verizon that any provision in the Terms complies with the rights and duties imposed by the Act, the decisions of the FCC and the Commissions, the decisions of the courts, or other law, and Verizon expressly reserves its full right to assert and pursue claims arising from or related to the Terms.
5. Verizon reserves the right to deny Level 3's adoption and/or application of the Terms, in whole or in part, at any time:
  - (a) when the costs of providing the Terms to Level 3 are greater than the costs of providing them to PCS;
  - (b) if the provision of the Terms to Level 3 is not technically feasible; and/or
  - (c) to the extent that Verizon otherwise is not required to make the Terms available to Level 3 under applicable law.
6. For avoidance of doubt, please note that adoption of the Terms will not result in reciprocal compensation payments for Internet traffic. Verizon has always taken the position that reciprocal compensation was not due to be paid for Internet traffic under section 251(b)(5) of the Act. Verizon's position that reciprocal compensation is not to be paid for Internet traffic was confirmed by the FCC in the Order on Remand and Report and Order adopted on April 18, 2001 ("*FCC Internet Order*"), which held that Internet traffic constitutes "information access" outside the scope of the reciprocal compensation obligations set forth in section 251(b)(5) of the Act.<sup>1</sup> Accordingly, any compensation to be paid for Internet traffic will be handled pursuant to the terms of the *FCC Internet Order*, not pursuant to adoption of the Terms.<sup>2</sup> Moreover, in light of the *FCC Internet Order*, even if the Terms include provisions invoking an intercarrier compensation mechanism for Internet traffic, any reasonable amount of time

<sup>1</sup> Order on Remand and Report and Order, In the Matters of: Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 and Intercarrier Compensation for ISP-Bound Traffic, CC Docket No. 99-68 (rel. April 27, 2001) ¶44.

<sup>2</sup> For your convenience, an industry letter distributed by Verizon explaining its plans to implement the *FCC Internet Order* can be viewed at Verizon's Customer Support Website at URL [www.verizon.com/wise](http://www.verizon.com/wise) (select Verizon East Customer Support, Resources, Industry Letters, CLEC).

permitted for adopting such provisions has expired under the FCC's rules implementing section 252(i) of the Act.<sup>3</sup> In fact, the *FCC Internet Order* made clear that carriers may not adopt provisions of an existing interconnection agreement to the extent that such provisions provide compensation for Internet traffic.<sup>4</sup>

7. Should Level 3 attempt to apply the Terms in a manner that conflicts with paragraphs 3-6 above, Verizon reserves its rights to seek appropriate legal and/or equitable relief.
8. In the event that a voluntary or involuntary petition has been or is in the future filed against Level 3 under bankruptcy or insolvency laws, or any law relating to the relief of debtors, readjustment of indebtedness, debtor reorganization or composition or extension of debt (any such proceeding, an "Insolvency Proceeding"), then: (i) all rights of Verizon under such laws, including, without limitation, all rights of Verizon under 11 U.S.C. § 366, shall be preserved, and Level 3's adoption of the Verizon Terms shall in no way impair such rights of Verizon; and (ii) all rights of Level 3 resulting from Level 3's adoption of the Verizon terms shall be subject to and modified by any Stipulations and Orders entered in the Insolvency Proceeding, including, without limitation, any Stipulation or Order providing adequate assurance of payment to Verizon pursuant to 11 U.S.C. § 366.

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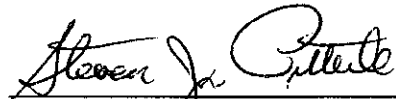
<sup>3</sup> See, e.g., 47 C.F.R. Section 51.809(c).

<sup>4</sup> *FCC Internet Order* ¶ 82.

Please arrange for a duly authorized representative of Level 3 to sign this letter in the space provided below and return it to the undersigned.

Sincerely,

GTE MIDWEST INCORPORATED, D/B/A VERIZON MIDWEST



Steven J. Pitterle  
Director – Negotiations  
Network Services

4/16/02

(DATE)

Reviewed and countersigned as to points A, B, and C of paragraph 1:

LEVEL 3 COMMUNICATIONS, LLC



(SIGNATURE)

Kevin Paul

(PRINT NAME)

4/12/02

(DATE)

c: R. Ragsdale – Verizon

# BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of GTE Midwest  
Incorporated d/b/a Verizon Midwest for Approval  
of a Comprehensive Interconnection Agreement  
with Preferred Carrier Services, Inc. d/b/a Phones  
for All and Telefonos Para Todos, Pursuant to  
Section 252(e) of the Telecommunications Act  
of 1996.

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Case No. TO-2002-166

## ORDER APPROVING RESALE AGREEMENT

This order approves the resale agreement executed by the parties and filed by GTE Midwest Incorporated d/b/a Verizon Midwest.

On October 2, 2001, Verizon filed an application with the Missouri Public Service Commission for approval of a resale agreement (Agreement) with Preferred Carrier Services, Inc. d/b/a Phones for All and Telefonos Para Todos. The Agreement was filed pursuant to Section 252(e)(1) of the Telecommunications Act of 1996 (the Act).<sup>1</sup> The Agreement would permit Preferred to resell local telecommunications services.

Although Preferred is a party to the Agreement, it did not join in the application. On October 10, 2001, the Commission issued an order making Preferred a party in this case and directing any party wishing to request a hearing to do so no later than October 30, 2001. No requests for hearing were filed.

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<sup>1</sup> See 47 U.S.C. § 251, *et seq.*

The Commission has considered the application, the supporting documentation, and Staff's recommendation. Based upon that review, the Commission concludes that the Agreement meets the requirements of the Act in that it does not unduly discriminate against a nonparty carrier, and implementation of the Agreement is not inconsistent with the public interest, convenience and necessity. The Commission finds that approval of the Agreement should be conditioned upon the parties submitting any modifications or amendments to the Commission for approval pursuant to the procedure set out below.

### **Modification Procedure**

The Commission has a duty to review all resale and interconnection agreements, whether arrived at through negotiation or arbitration, as mandated by the Act.<sup>3</sup> In order for the Commission's role of review and approval to be effective, the Commission must also review and approve or recognize modifications to these agreements. The Commission has a further duty to make a copy of every resale and interconnection agreement available for public inspection.<sup>4</sup> This duty is in keeping with the Commission's practice under its own rules of requiring telecommunications companies to keep their rate schedules on file with the Commission.<sup>5</sup>

The parties to each resale or interconnection agreement must maintain a complete and current copy of the agreement, together with all modifications, in the Commission's offices. Any proposed modification must be submitted for Commission approval or recognition, whether the modification arises through negotiation, arbitration, or by means of alternative dispute resolution procedures.

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<sup>3</sup> 47 U.S.C. § 252.

<sup>4</sup> 47 U.S.C. § 252(h).

<sup>5</sup> 4 CSR 240-30.010.

interest, convenience and necessity under Section 252(e)(2)(A). Based upon its review of the Agreement between Verizon and Preferred, and its findings of fact, the Commission concludes that the Agreement is neither discriminatory, nor inconsistent with the public interest, and should be approved.

**IT IS THEREFORE ORDERED:**

1. That the interconnection agreement between GTE Midwest Incorporated d/b/a Verizon Midwest and Preferred Carrier Services, Inc. d/b/a Phones for All and Telephonos Para Todos, filed on October 2, 2001, is approved.
2. That any changes or modifications to this Agreement shall be filed with the Commission pursuant to the procedure outlined in this order.
3. That this order shall become effective on December 6, 2001.
4. That this case may be closed on December 7, 2001.

**BY THE COMMISSION**



**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

( S E A L )

Shelly A. Register, Regulatory Law Judge,  
by delegation of authority pursuant  
to Section 386.240, RSMo 2000.

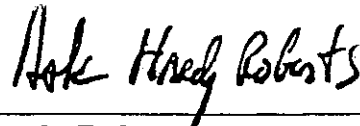
Dated at Jefferson City, Missouri,  
on this 26th day of November, 2001.

**STATE OF MISSOURI**

**OFFICE OF THE PUBLIC SERVICE COMMISSION**

I have compared the preceding copy with the original on file in this office and  
I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,  
Missouri, this 26<sup>th</sup> day of Nov. 2001.



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Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge