

**Dorothy Menasco**

**From:** Keating, Beth [beth.keating@akerman.com]  
**Sent:** Tuesday, October 16, 2007 1:46 PM  
**To:** Filings@psc.state.fl.us  
**Attachments:** 20071016143420025.pdf

Attached for filing in the referenced Docket, please find Neutral Tandem's Response in Opposition to Level 3's Motion for Leave to File Supplemental Exhibit F to Supplemental Legal Brief. Thank you for your assistance, and please do not hesitate to let me know if you have any questions.

Sincerely,

Beth Keating  
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A.  
Beth Keating  
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b. Docket No. 070408-TP: Petition of Neutral Tandem, Inc. and Neutral Tandem-Florida, LLC for resolution of Interconnection Dispute with level 3 Communications and request for Expedited Resolution

C. On behalf of Neutral Tandem, Inc. and Neutral Tandem-Florida, LLC

D. Number of Pages: Total with attachment - 5

E: Response in Opposition to Motion for Leave to File Supplemental Exhibit F to Supplemental Legal Brief.



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October 16, 2007

**VIA ELECTRONIC FILING**

Ms. Ann Cole  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32309

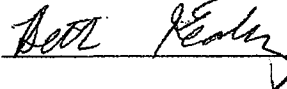
**Docket No. 070408-TP - Petition of Neutral Tandem, Inc. and Neutral Tandem-Florida, LLC  
for Resolution of Interconnection Dispute with Level 3 Communications and Request for  
Expedited Resolution**

Dear Ms. Cole:

Enclosed for electronic filing in the above-referenced Docket, please find Neutral Tandem's Response in Opposition to Level 3's Motion for Leave to File Supplemental Exhibit F to Supplemental Legal Brief.

If you have any questions whatsoever, please do not hesitate to contact me.

Sincerely,



**Beth Keating**  
**AKERMAN SENTERFITT**  
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Enclosures

{TL138837;1}

DOCUMENT NUMBER-DATE

09478 OCT 16 5

FPSC-COMMISSION CLERK

**BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition of Neutral Tandem, Inc. and ) Docket No. 070408-TP  
Neutral Tandem-Florida, LLC )  
for Resolution of Interconnection Dispute ) Filed: October 16, 2007  
with Level 3 Communications and Request )  
for Expedited Resolution )

**NEUTRAL TANDEM, INC. AND NEUTRAL TANDEM-FLORIDA, LLC'S  
RESPONSE IN OPPOSITION TO LEVEL 3'S NOTICE OF SUPPLEMENTAL FILING.**

Neutral Tandem, Inc. and Neutral Tandem-Florida, LLC ("Neutral Tandem"), strenuously object to Level 3 Communications, LLC's ("Level 3") Motion for Leave to File Supplemental Exhibit F. While Neutral Tandem does not object to the submission by Level 3 of its proposed supplemental Exhibit F, notwithstanding its irrelevance to the issues before this Commission, Neutral Tandem does object to Level 3's unabashed use of its Motion to proffer additional argument to the Commission in clear contravention of the 7 - page limitation prescribed by the Prehearing Officer for the Supplement Briefs. In support of its Opposition, Neutral Tandem states:

1. Level 3 has sought to introduce into the record a letter submitted to the Public Utilities Commission of Ohio in a proceeding involving carrier-to-carrier rules. Contrary to Level 3's assertions, the statements referenced therein are not relevant to the jurisdictional and standing issues currently pending before this Commission.

2. Specifically, Level 3 states, in part, at page 2 of its Motion that "Neutral Tandem's October 12 letter advocates market-based pricing for its interconnection with other carriers. . . ." This is absolutely incorrect. In the Ohio proceeding, Neutral Tandem has advocated that rates for transit service should be market based, as clearly set forth in the quotation Level 3 has recited from Neutral Tandem's letter. Neutral Tandem has not taken the position that market-based rates

should apply to interconnection with terminating carriers for the purpose of terminating transit traffic.<sup>1</sup> Thus, contrary to Level 3's assertions, Neutral Tandem's October 12, 2007, letter to the Public Utilities Commission of Ohio is not "in complete contradiction with the Section 364.16(2) statutory powers granted to the Commission which Neutral Tandem seeks to invoke in this proceeding." *Citing* Motion at p. 2.

3. Level 3's Supplemental Brief, filed on October 5, 2007, already encompasses the full 7-page length allowed by the Prehearing Officer. The additional two pages of argument included in its Motion thus extends Level 3's Supplemental Brief, for all practical purposes, to approximately 9 pages. Again, Neutral Tandem does not object to the submission of Supplemental Exhibit F, which speaks for itself, but does object to Level 3's prejudicial supplementation of its Brief.

WHEREFORE, for all of the foregoing reasons, Neutral Tandem respectfully requests that the Prehearing Officer deny Level 3's Motion for Leave to File Supplemental Exhibit F to Supplemental Legal Brief, or, in the alternative, strike all argument in the Motion as prejudicial and contrary to the page limitation applied to the Parties' Supplemental Briefs.

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<sup>1</sup> More specifically, termination of transited traffic by a carrier is not a "competitive service," because the terminating carrier is the only entity capable of terminating traffic to customers on its network. Non-discriminatory terms and conditions for termination of traffic are, in fact, necessary for competition to develop in the transit traffic market.


Respectfully submitted,

NEUTRAL TANDEM, INC.

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*Attorney for Neutral Tandem, Inc.*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via U.S. Mail First Class and Electronic Mail to Kenneth Hoffman, Esquire, Rutledge, Ecenia, Purnell, and Hoffman, P.A., 215 South Monroe Street, Suite 420, Tallahassee, FL 32301 (ken@reuphlaw.com), and that a copy has also been provided to the persons listed below this 16th day of October, 2007:

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