

**FIRST AMENDMENT TO
AGREEMENT FOR LOCAL INTERCONNECTION
AND LOCAL TRAFFIC EXCHANGE**

BY AND BETWEEN

WHIDBEY TELEPHONE COMPANY

AND

LEVEL 3 COMMUNICATIONS, LLC

02/18/2022

This First Amendment (this “Amendment”) is made effective, subject to Section 7 below, as of the 1st day of November, 2021, by and between Whidbey Telephone Company dba Whidbey Telecom (“ILEC”), a Washington corporation with offices at 14888 SR 525, Langley, WA 98260, and Level 3 Communications, LLC (“Level 3”), a Delaware limited liability company with offices at 1025 Eldorado Boulevard, Broomfield, CO 80021. Whidbey and Level 3 may also be referred to herein singularly as a “Party” or collectively as the “Parties.”

BACKGROUND

ILEC and Level 3 have previously entered into that certain Agreement for Local Interconnection and Local Traffic Exchange by and between ILEC and Level 3, which agreement contained a stated effective date of November 1, 2021, and was approved by order of the Washington Utilities and Transportation Commission (“WUTC”), dated February 9, 2022, in its Docket No. UT-210863 (the “Agreement”).

The Parties now desire to amend the Agreement as set forth more fully below, all subject to the approval of this Amendment by the WUTC as required by law.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Amendment to Agreement. Upon the approval of this Amendment by the WUTC, the Agreement shall, by this Amendment, be amended as follows:

A. By replacing Section 2.2 of the Agreement with the following corrected Section 2.2:

2.2 The Traffic exchanged between the Parties pursuant to this Agreement may be used by either Party to provide retail services or wholesale services, including, but not limited to, voice over internet protocol (“VoIP”) services; provided, however, that nothing contained in this Agreement shall be construed to require ILEC to deploy VoIP capabilities, or to accept Traffic from, or to deliver Traffic to, Level 3 in VoIP format. The Traffic Level 3 delivers to ILEC shall be treated under this Agreement as Level 3 Traffic, all billing associated with that Traffic shall be in the name of Level 3, and any and all amounts due ILEC with respect thereto arising under this Agreement shall be paid for by Level 3, all subject to the terms and conditions of this Agreement. The Traffic ILEC delivers to Level 3 shall be treated under this Agreement as ILEC Traffic, all billing associated with that Traffic shall be in the name

of ILEC, and any and all amounts due Level 3 with respect thereto arising under this Agreement shall be paid for by ILEC, all subject to the terms and conditions of this Agreement; provided, however, that no billing by Level 3 for Transit Traffic exchanged pursuant to Section 15 of this Agreement shall be addressed to ILEC and ILEC shall have no obligation to remit any payment to Level 3 with respect to any Transit Traffic exchanged pursuant to Section 15 of this Agreement.

B. By replacing paragraph (a) of Section 13.15 of the Agreement with the following corrected paragraph (a):

(a) As used in this Section 13.15, the terms “robocall” and “unlawful robocall,” and “suspected unlawful robocall” shall have the same meanings as they have in the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act, Public Law No. 116-105, 133 Stat. 3274.

C. By replacing Section 21.1 of the Agreement with following corrected Section 21.1:

21.1. Level 3 hereby represents that, as of the effective date of this Agreement, neither Level 3 nor any Affiliate or wholesale customer of Level 3 distributes or publishes any directory covering any portion of either ILEC Rate Center. If either Level 3 or any Affiliate or wholesale customer of Level 3 hereafter publishes or distributes any directory covering any portion of either ILEC Rate Center, the provisions of this Section 21 shall apply. Notwithstanding the preceding sentence, the indemnification obligations set forth in Section 21.7 shall apply to both Parties from and after the effective date of this Agreement. If either Level 3 or any Affiliate or wholesale customer of Level 3 commences to publish or distribute any directory covering any portion of either ILEC Exchange, Level 3 shall give written notice thereof to ILEC in accordance with Section 11 not less than forty-five (45) days prior to the cut-off for the submission by ILEC of listings for inclusion in the said directory. For purposes of this Section 21, any directory published or distributed by any Affiliate or wholesale customer of Level 3 shall be

treated as though it were published or distributed by Level 3.

D. By replacing that portion of Attachment 1 to the Agreement pertaining to “Nomadic Traffic” with the following:

NOMADIC TRAFFIC

NOMADIC TRAFFIC FACTOR
PERCENTAGE OF TRAFFIC DEEMED
TO BE NOMADIC TRAFFIC*** 2%

*** This is the percentage of Traffic, as defined in the Agreement to which this Attachment 1 is attached, delivered by Level 3 to ILEC pursuant to this Agreement, that shall be deemed to be “Nomadic Traffic,” as defined in Section 14.6 of this Agreement.

2. Governing Law. To the extent not governed exclusively by, and construed exclusively in accordance with, the laws and regulations of the United States, this Amendment is governed by, and construed in accordance with, the laws and regulations of the United States, to the extent applicable, and the laws of and regulations of the state of Washington, without regard to its conflicts of laws principles.
3. Meaning of Terms. Capitalized terms appearing in this Amendment shall have the same meaning as is given to them in the Agreement, unless a different meaning therefor is explicitly set forth herein, in which event the latter meaning shall be controlling for purposes of this Amendment.
4. Severability. If any part of this Amendment is held to be unenforceable or invalid in any respect under law or regulation, such unenforceability or invalidity shall affect only the portion of this Amendment that is unenforceable or invalid. In all other respects, this Amendment shall stand as if the invalid provision had not been a part thereof, and the remainder of this Amendment shall remain in full force and effect, unless removal of that provision results in a material change to this Amendment or to the Agreement. If replacement language cannot be agreed upon, either Party may invoke the Dispute Resolution provisions set forth in Section 12 of the Agreement.
5. Captions and Headings. Captions and Section headings have been included in this Amendment solely for the convenience of the Parties, and shall not affect the interpretation of this Amendment.
6. Confirmation of Agreement. Except as expressly modified herein, the Agreement shall remain in full force and effect in accordance with its terms.

7. Effectiveness. Section 1 of this Amendment shall not be effective unless and until this Amendment shall be approved by order of the WUTC, whereupon said Section 1 shall become effective upon the service date of the said order, as evidenced on the face thereof. All other provisions of this Amendment shall become effective upon the date on which the second of the Parties to execute this Amendment delivers, or causes to be delivered, to the other Party an executed copy of this Amendment executed by said second Party.
8. Counterparts. This Amendment may be executed in counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.
9. Entire Agreement. This Amendment constitutes the entire agreement of the Parties with respect to the subject matter hereof, and, except as expressly set forth herein, supersedes all prior oral or written agreements, representations, statements, negotiations, understandings, proposals, and undertakings with respect to such subject matter.

IN WITNESS WHEREOF, each Party has caused this Amendment to be duly executed on its behalf by its duly authorized representative and warrants that it has caused this Amendment to be signed and delivered by its duly authorized representative.

Level 3 Communications, LLC

Whidbey Telephone Company

By: *Gary R Black Jr*
Gary R Black Jr (May 6, 2022 09:34 MDT)

 Signature

 Gary R Black Jr

 Typed or Printed Name

 VP Carrier Relations

 Title

 May 6, 2022

 Date

By: *Donna E Hilty*
Donna E Hilty (May 23, 2022 13:45 PDT)

 Signature

 Donna E Hilty

 Typed or Printed Name

 COO

 Title

 May 23, 2022

 Date