

**UNITED STATES JUDICIAL PANEL**  
**on**  
**MULTIDISTRICT LITIGATION**

**IN RE: INTRAMTA SWITCHED ACCESS  
CHARGES LITIGATION**

MDL No. 2587

**TRANSFER ORDER**

**Before the Panel:** Plaintiffs in one of the seven actions listed on Schedule A and defendants in MDL No. 2587, CenturyLink,<sup>1</sup> move under 28 U.S.C. § 1407(c) to transfer the actions listed on Schedule A to MDL No. 2587. More than fifty plaintiff LECs in the actions and sixteen AT&T affiliated LEC defendants in MDL No. 2587 join the motion for transfer. Common defendant Level 3<sup>2</sup> opposes the motion for transfer.

After considering the argument of counsel, we find these actions involve common questions of fact with the actions previously transferred to MDL No. 2587, and transfer under 28 U.S.C. § 1407 will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. The actions in MDL No. 2587 involve factual questions arising from allegations that defendant LECs improperly billed long-distance carriers (interexchange carriers or IXCs), Verizon and Sprint, for switched access charges for intraMTA calls—calls originated and terminated in the same major trading area. *See In re: IntraMTA Switched Access Charges Litig.*, 67 F. Supp. 3d 1378, 1379 (J.P.M.L. 2014).

Plaintiff LECs in the seven actions now before the Panel allege that another IXC, Level 3, has improperly withheld payment of switched access charges for intraMTA calls. These claims are substantially similar to counterclaims many of the same LECs are due to file in MDL No. 2587 against Sprint and Verizon. In opposing inclusion of these actions in the MDL, Level 3 argues, as Sprint did in opposing centralization, that “these actions share common legal issues, but do not share sufficient issues of fact, and that most common factual issues will be undisputed.” *Id.* at 1380. We rejected these arguments with respect to the actions brought by Sprint, and are not persuaded by them now. The facts and relationships among the parties in this litigation are quite complex, and many of the parties to these seven actions already are involved in the MDL. Indeed, Level 3 itself is named as a defendant in its capacity as an LEC in two MDL No. 2587 actions.

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<sup>1</sup> The CenturyLink entities include 84 local exchange carriers (LECs) affiliated with CenturyLink, Inc.

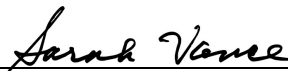
<sup>2</sup> Level 3 Communications, LLC; WilTel Communications, LLC; and Global Crossing Telecommunications, Inc.

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Level 3 also argues that, because the transferee court already has ruled on motions to dismiss in MDL No. 2587, the MDL is too far advanced for these actions to benefit from inclusion, and transfer would violate Level 3's due process rights. We do not find these arguments convincing. While the transferee court has ruled on defendant LECs' joint motion to dismiss, the court granted Sprint and Verizon leave to replead their state law claims. Thus the IXC's state law claims and the counterclaims of the LECs will go forward in the MDL. Discovery has not commenced either in these actions or the MDL, and the MDL still remains at a relatively early stage. Moreover, the Panel has transferred tag-along actions to an MDL after substantive rulings have issued. Indeed, we have found that transfer of related actions after the transferee court has issued a substantive ruling can result in substantial efficiencies. *See In re: Auto Body Shop Antitrust Litig.*, MDL No. 2557, 2015 WL 4747834, at \*1 (J.P.M.L. Apr. 1, 2015) (transferring an action to an MDL "where the transferee court already has ruled on dispositive motions and thus is familiar with the factual and legal issues likely to be presented").

IT IS THEREFORE ORDERED that the actions listed on Schedule A are transferred to the Northern District of Texas and, with the consent of that court, assigned to the Honorable Sidney A. Fitzwater for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



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Sarah S. Vance

Chair

Marjorie O. Rendell  
Lewis A. Kaplan  
R. David Proctor

Charles R. Breyer  
Ellen Segal Huvelle  
Catherine D. Perry

**IN RE: INTRAMTA SWITCHED ACCESS  
CHARGES LITIGATION**

MDL No. 2587

**SCHEDULE A**

District of Colorado

CENTURYLINK COMMUNICATIONS, LLC, ET AL. v. LEVEL 3 COMMUNICATIONS,  
LLC, ET AL., C.A. No. 1:16-00003  
ARLINGTON TELEPHONE COMPANY, ET AL. v. LEVEL 3 COMMUNICATIONS,  
LLC, ET AL., C.A. No. 1:16-00014

Central District of Illinois

ADAMS TELEPHONE CO-OPERATIVE, ET AL. v. LEVEL 3 COMMUNICATIONS,  
LLC, ET AL., C.A. No. 3:15-03357

Western District of Kentucky

DUO COUNTY TELEPHONE COOPERATIVE CORPORATION, INC., ET AL. v.  
LEVEL 3 COMMUNICATIONS, LLC, ET AL., C.A. No. 3:15-00904

Western District of Michigan

ACE TELEPHONE COMPANY OF MICHIGAN, INC., ET AL. v. LEVEL 3  
COMMUNICATIONS, LLC, ET AL., C.A. No. 1:16-00016

Eastern District of Missouri

BIG RIVER TELEPHONE COMPANY, LLC, ET AL. v. LEVEL 3 COMMUNICATIONS,  
LLC, ET AL., C.A. No. 4:16-00049

Western District of Wisconsin

UNION TELEPHONE COMPANY, ET AL. v. LEVEL 3 COMMUNICATIONS, LLC,  
ET AL., C.A. No. 3:16-00036