

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

QWEST CORPORATION,

Complainant,

v.

LEVEL 3 COMMUNICATIONS, LLC;
PAC-WEST TELECOMM, INC.;
NORTHWEST TELEPHONE INC.; TCG-
SEATTLE; ELECTRIC LIGHTWAVE,
INC.; ADVANCED TELCOM GROUP, INC.
D/B/A ESCHELON TELECOM, INC.;
FOCAL COMMUNICATIONS
CORPORATION; GLOBAL CROSSING
LOCAL SERVICES INC; AND, MCI
WORLDCOM COMMUNICATIONS, INC.

DOCKET NO. UT-063038

QWEST CORPORATION'S ANSWER
AND OBJECTION TO LEVEL 3'S
MOTION TO FILE AN ANSWER

I Pursuant to WAC 480-07-375, Qwest Corporation (“Qwest”) hereby files an answer and objection to Level 3’s Motion for Leave to File an Answer which was filed on August 4, 2008. Qwest does not comment on whether the Commission should generally call for answers to the Petition for Reconsideration filed by Pac-West on August 4, 2008. This filing is simply to object to Level 3’s request for leave to file an answer for the reasons contained in Level 3’s filing.

2 Level 3 makes it clear in its motion, at paragraphs 4-7 and 9, that Level 3 seeks additional review and reconsideration of the Commission’s order, beyond that requested by Pac-West. Thus, Level 3 seeks to broaden the scope of Pac-West’s petition and to raise new issues for reconsideration. However, reconsideration of a final order is controlled by statute and rule, and those statutes and rules govern the process and the scope of reconsideration. WAC 480-07-850 (1) provides that “[a]ny party may petition for reconsideration of a final order within ten days after the order is served.” The rule goes on to state that the “purpose of a petition for reconsideration is to request that the commission change the outcome with respect to one or more issues determined by the commission's final order.” RCW 34.05.470 and WAC 480-120-850 require that petitions be filed within 10 days of the final order, and that statutory deadline cannot be waived or modified. It is clear that Level 3’s proposed “answer”, should one be permitted, is simply an attempt to change the outcome of the Commission’s order, and is thus a petition for reconsideration that is beyond the statutory deadline for filing.

3 Any party who wishes to change the outcome of a final order is required to file its own petition for reconsideration. It is impermissible to seek additional reconsideration in an answer to a petition for reconsideration. This is in contrast to the rule regarding administrative review of an initial order – in that case, any party answering a petition for administrative review may raise new issues in its answer. WAC 480-07-825(4)(c). That such a provision is contained in this rule, and not in the rules governing reconsideration, makes it clear that it is not permitted to seek additional reconsideration of a final order in an answer to another party’s petition for reconsideration.

4 The Commission should deny Level 3’s motion for leave to file an answer on the basis that the issues to be raised in Level 3’s answer are not within the scope of the rules and

statutes governing such answers.

DATED this 11th day of August, 2008.

QWEST CORPORATION

Lisa A. Anderl, WSBA #13236
Adam L. Sherr, WSBA #25291
1600 7th Avenue, Room 3206
Seattle, WA 98191
Phone: (206) 398-2500