

cost responsibilities, regardless of competitive classification, will rectify the inappropriate disparity between ILEC's and CLEC's 911 related costs.¹

II. Competitive Concerns

A. The Playing Field Must be Level

There cannot be fair competition where a discriminatory regulatory scheme causes artificial market distortions. Carriers that utilize the E-911 system should bear like costs for the use of like facilities regardless of competitive or technological classification. If competitors must pay their own way to the selective router, so should the incumbents. Conversely, if the Commission chooses to maintain the ILEC subsidy on transport to the selective router, that treatment should be extended to competitive carriers.

B. Disparate Cost Recovery Puts CLECs at a Competitive Disadvantage

The current cost recovery model is fundamentally discriminatory. Qwest is correct that the current system was developed in the 1970's² - under a governmentally supported monopoly environment where it enjoyed a guaranteed rate of return. Competitive carriers on the other hand, must invest in their network while risking their ability to recoup those costs. Continuing to reimburse ILECs for carrier-side transport to the selective router while competitors bear those costs themselves, puts CLECs at a competitive disadvantage in a market that the ILECs attempt to characterize as fully competitive while they continue to enjoying benefits like this as the incumbent. The Commission should take this opportunity to level the competitive landscape to encourage innovative technologies while protecting public health and safety.

While there are now only 10 selective routers in the State Washington³, it does not follow that the ILECs are being asked to traverse more territory than other providers in order to reach the selective router. CLECs are almost guaranteed to have a less ubiquitous network by comparison and must therefore traverse further distances to reach the selective router. For example, Level 3 is required to pay for transport between these same 10 selective routers and the fifteen points of interconnection it has established with Qwest and Verizon in the state. Therefore, the transport costs are likely far greater for competitors.

¹ See Emergency Management Division Letter to Bob Williamson, Washington Utilities and Transportation Commission, July, 22, 2004; see also comments of Spokane County, filed on December 8, 2004; Yakima County 9-1-1, filed February 25, 2005; Island County Emergency Services Communications Center, filed February 4, 2004; King County E-911 Program Office, filed February 4, 2005; Association of Public-Safety Communications Officials International, Inc., filed February 4, 2005; Thurston County 9-1-1, filed on February 2, 2005.

² Qwest Comments filed December 9, 2004, at page 1.

³ Emergency Management Division Letter to Bob Williamson, Washington Utilities and Transportation Commission, July, 22, 2004.

III. Policy Considerations

A. Competitive Neutrality Encourages E-911 Implementation by VoIP Providers

Establishing a competitively neutral system of 911 cost allocation will help encourage the implementation of E-911 capabilities for IP-enabled services. Competitive VoIP providers looking to implement E-911 capabilities face enormous challenges. If VoIP providers are to be expected to invest large amounts of capital developing new applications while enabling their networks for E-911, the marketplace that they seek to compete in cannot be inherently discriminatory. The Commission should remove economic disincentives that act as barriers to supporting the public interest which is served best by encouraging the implementation of advanced technologies and emergency services throughout the State of Washington.

B. PSAP Budgets Should be Used to Upgrade Equipment and Infrastructure Rather Than to Inflate the Profits of the ILECs

The budget amounts that PSAPs spend reimbursing the ILECs for carrier-side transport to the selective router would be better spent upgrading their infrastructure to capitalize on the many possible enhancements to the emergency services system that IP technology offers. Simply maintaining or trying to duplicate the 911 system that has served us well in the past is short-sighted. Imagine a world where the emergency operator could simultaneously receive a person's medical history or drug allergy information along with the emergency call, or where family members could be immediately notified when their elderly parent makes an E-911 call, or where ambulance technicians could receive information on how to treat an advanced condition while in route to the patient's location. These types of advancements are not science fiction, but real possibilities with IP technology. Although the IP networks will be capable of advanced functionality, the PSAPs will need to invest in equipment and infrastructure upgrades to be able to take advantage of these advancements. Continuing to reimbursing ILECs for carrier-side transport to the selective router does not advance the goal of recognizing the full potential of IP technologies.

IV. Conclusion

Level 3 urges the Commission to grant the request for reform that the Emergency Management Division seeks in this proceeding. There is no justification for continuing the current discriminatory regime for E-911 facilities costs. When competitive providers are allowed to compete on a level playing field, Washington consumers will benefit. The consumer benefits will come in the form of greater deployment of advanced communication services and advancements in emergency response capabilities. It goes without saying that ILECs enjoy many competitive advantages simply by virtue of being an incumbent - why should they also be allowed to profit at the expense of competition and benefits to the consumer? Level 3 respectfully requests that the Commission modify

WAC 480-120-450 in a manner which creates a competitively and technologically neutral cost recovery system for carrier-side transport to the selective router.

**Respectfully Submitted by Level 3
Communications, LLC on the
25th Day of February, 2005:**

Greg L. Rogers
Director - State Regulatory Affairs
Level 3 Communications, LLC
1025 Eldorado Boulevard
Broomfield, CO 80021
Tel: 720-888-2512
e-mail: greg.rogers@level3.com

Gregg Strumberger
Regulatory Counsel
Level 3 Communications, LLC
1025 Eldorado Boulevard
Broomfield, CO 80021
Tel: 720-888-1780
e-mail: gregg.strumberger@level3.com