

August 18, 2006

VIA U.S. MAIL AND E-MAIL

Carol J. Washburn
Executive Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive S.W.
Olympia, WA 98504-7250

Re: *In the Matter of the Petition of Level 3 Communications*
WUTC Docket No. UT-063006

Dear Ms. Washburn:

Enclosed for filing in the above-referenced docket, please find the original and three (3) copies of the *Supplemental Direct Testimony of Mack D. Green*, filed on behalf of Level 3 Communications, LLC.

A copy of this document has been sent to all parties on the attached Certificate of Service via the method(s) indicated.

If you have any questions, please feel free to contact our office.

Sincerely,

ATER WYNNE LLP



Susan Arellano
Assistant to Arthur A. Butler

Enclosures

cc: Parties of Record

CERTIFICATE OF SERVICE

I hereby certify that I have this 18th day of August, 2006, served the true and correct original, along with the correct number of copies, of the foregoing document upon the WUTC, via the method(s) noted below, properly addressed as follows:

Carole Washburn	<input type="checkbox"/>	Hand Delivered
Executive Secretary	<input type="checkbox"/>	U.S. Mail (first-class, postage prepaid)
Washington Utilities and Transportation Commission	<input checked="" type="checkbox"/>	Overnight Mail (UPS)
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with a copy to

WUTC Records Center

I hereby certify that I have this 18th day of August, 2006, served a true and correct copy of the foregoing document upon parties of record, via the method(s) noted below, properly addressed as follows:

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On Behalf Of Level 3 Communications, LLC:

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On Behalf Of Level 3:

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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 18th day of August, 2006, at Seattle, Washington.

S. Arllano

BEFORE THE
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

IN THE MATTER OF LEVEL 3
COMMUNICATIONS, LLC'S PETITION
FOR ARBITRATION PURSUANT TO
SECTION 252(B) OF THE
COMMUNICATIONS ACT OF 1934, AS
AMENDED BY THE
TELECOMMUNICATIONS ACT OF 1996,
AND THE APPLICABLE STATE LAWS
FOR RATES, TERMS, AND CONDITIONS
OF INTERCONNECTION WITH QWEST
CORPORATION,

LEVEL 3 COMMUNICATIONS, LLC,

Petitioner.

Docket No. UT-063006

SUPPLEMENTAL DIRECT TESTIMONY OF

MACK D. GREENE

**ON BEHALF OF
LEVEL 3 COMMUNICATIONS, LLC**

AUGUST 18, 2006

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1 **I. STATEMENT OF SCOPE AND SUMMARY**

2 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

3 A. I am testifying on behalf of Level 3 Communications, LLC (“Level 3”) regarding recent
4 changes Level 3 made to interconnection agreement terms and conditions originally
5 proposed in arbitration proceeding between Level 3 and Qwest over a year ago. During
6 the course of the past fifteen months of litigation, I have come to better understand
7 Qwest’s positions. But not until very recently, through technical sessions held in New
8 Mexico and Oregon has Level 3 come to more fully understand Qwest’s objections as
9 well as how Level 3 could refine contract terms, narrow disputes, and clarify issues in
10 dispute. Level 3’s updated contract language, as reflected in the updated Joint Disputed
11 Points List proceeding reflects that updated understanding.

12 **Q. PLEASE INTRODUCE YOUR TESTIMONY, INCLUDING YOUR APPROACH**
13 **AND ORGANIZATION OF INFORMATION.**

14 A. In an effort to be as concise as possible, I am incorporating my prior testimony in this
15 case by reference. In the context of my previous testimony, new understandings resulting
16 from technical conferences conducted in New Mexico and two in Oregon (the most
17 recent of which was on the record¹), Level 3 updated four key contract proposals:

- 18 1. Efficient use of existing co-carrier plant to enable Level 3 to compete with
19 the nation’s largest ILEC-backed IXCs for the low cost termination of
20 Long Distance traffic;
- 21 2. The appropriate allocation of costs on each side of a carrier’s POI;
- 22 3. The appropriate treatment of Enhanced Service Provider traffic in
23 Washington; and
- 24 4. The clarification of certain interconnection rights of Level 3.

¹ Technical conference held on May 23, 2006 In the Matter of the Interconnection Agreement with Level 3 Communications, LLC and Qwest, Arb. No 665

1 In reviewing and updating its contract language, Level 3 also realized that there were
2 several Qwest provisions that had been agreed upon in other states, or could be agreed
3 upon in the State of Washington.

4 **Q. HOW DOES LEVEL 3 ILLUSTRATE WHOSE LANGUAGE IS WHOSE?**

5 A. Level 3 and Qwest have agreed simply to use different fonts to indicate whether Level 3
6 proposed the disputed language, Qwest proposed the disputed language, or where the
7 parties agree upon the words used in the contract:

- 8 • Regular text means Level 3 and Qwest agree.
- 9 • **Bold and underlined** text means Qwest disagrees with Level 3's proposal.
- 10 • ***Bold and italicized*** text means Level 3 disagrees with Qwest's proposal.

11 **II. SECTIONS OF THE CONTRACT LEVEL 3 HAS AGREED UPON**

12 **Q. CAN YOU LIST THE SECTIONS OF QWEST LANGAUGE THAT LEVEL 3**
13 **HAS AGREED TO AND BREIFLY EXPLAIN THE TECHNICAL, POLICY OR**
14 **BUSINESS REASONS LEVEL 3 DETERMINED THEY COULD AGREE TO**
15 **THE LANGUAGE?**

16 A. Yes. Level 3 has agreed to or withdrawn the following language from dispute. Beside
17 each provision Level 3 has agreed upon in whole or part, I provide a brief explanation of
18 our reasoning:

- 19 • Section 7.1.2.3 – Mid Span Fiber Meet – Level 3 updated the DPL to clearly
20 indicate that it agrees to this provision allowing the parties to establish a Point
21 of Interconnection via Mid-Span meet. (This was not previously identified as
22 an issue, but appeared to be a discrepancy between contracts filed by Level 3
23 and by Qwest at the beginning of this case.).
- 24 • Issue No. 1C: Section 7.2.2.1.1 Local Interconnection – Level 3 provisions
25 indicating responsibility for costs of facilities used in the exchange of traffic
26 between two carriers addresses this issue at Section 7.1.1.1 of the contract.
27 Secondly, Qwest had claimed in other proceedings that this language indicted
28 that Level 3 would not pay for tariffed entrance facilities, which is not true.
29 Level 3 will pay for entrance facilities ordered pursuant to tariff.

- 1 • Issue No. 1D: Section 7.2.2.1.2.2 – This section describes ordering of “Direct
2 End Office Trunks” which Qwest requires for purposes of exchanging traffic
3 between two interconnected local exchange carriers. Level 3 objects to
4 provisions requiring that it purchase transport on Qwest’s side of the POI,
5 which is not required in Washington. Due to concerns, however, that Level 3
6 would not pay for Qwest-provided circuits between Level 3’s facilities and a
7 Level 3 customer, Level 3 agreed to language addressing types of transport
8 that could be purchased from Qwest either as Unbundled Network Elements
9 or from Qwest’s tariff (*i.e.* Tandem Switch routed or direct transport).

- 10 • Issue No. 1E: Section 7.2.2.1.4 – As with Issue 1D, Level 3 agreed to certain
11 Qwest language that makes clear Level 3’s intent to pay for interconnection,
12 exchange of traffic, and unbundled network elements according to
13 Washington-approved cost-based rates in Attachment A to the interconnection
14 agreement. Level 3 notes in this section that such agreement does not mean
15 that Level 3 will assume Qwest’s facilities costs for carrying locally dialed
16 telephone calls from Qwest to Level 3.

- 17 • Issue No. 1F: Section 7.2.2.2.9.6 – Similar to Issue 1C, Level 3 determined
18 that Section 7.1.1.1 clearly addresses cost responsibility for facilities one
19 carrier uses to send calls to the other carrier. Level 3 also removed objection
20 to the first sentence of 7.2.2.2.9.6 as Level 3’s updated provisions regarding
21 ISP-bound traffic and VoIP, however, ensure that Qwest cannot refuse to
22 exchange ISP-bound and VoIP traffic with Level 3, or block Level 3’s ability
23 to send interLATA and interstate IXC traffic to Qwest customers on Qwest’s
24 network over Level 3’s interconnection network.

- 25 • Issue No. 1G: Section 7.3.1.1.3.1 – Level 3 removed its proposed section as
26 updated section 7.3.6.1 and Level 3’s updated VNXX definition more clearly
27 address intercarrier compensation and cost responsibility for facilities one
28 carrier uses to send calls to the other carrier are clearly addressed in Level 3’s
29 Section 7.1.1.1.

- 30 • Issue No. 2B: Section 7.2.2.9.3.2 describes Qwest’s offer for sending all
31 traffic over Feature Group D trunking. While this appears to be a reasonable
32 counter-offer from Qwest, recall that Qwest opposed AT&T’s request to send
33 local traffic over AT&T’s already vast Feature Group D interconnection
34 network. AT&T did not have significant LIS trunks in place. So establishing
35 two networks was just as inefficient for AT&T then as it is for Level 3 now.
36 Moreover, it was not until the final stages of Qwest’s SGAT proceedings
37 before this Commission in 2001 that Qwest agreed in briefs filed with the
38 Commission, to allow AT&T to utilize its existing facilities to exchange
39 traffic rated as local according to compensation regimes then in effect.
40 Accordingly, Level 3 has agreed to language already approved by this

1 Commission with one small change – that the smaller relative share of traffic
2 – the long distance termination ride over the already massive interconnection
3 network – in this case LIS trunks – already in place.

4 • Issue No. 8: Definition of Call Record – Level 3 agreed to Qwest’s definition
5 of “Call Record” because Level 3’s softswitch platform is capable of
6 recording all such data.

7 • Issue No. 10: Definition of Interconnection – Level 3 agreed to Qwest’s
8 definition of Interconnection as it clearly states that Interconnection is defined
9 by the Act.

10 • Issue No. 12: Definition of InterLATA Toll Traffic – Level 3 agreed to
11 Qwest’s definition because it applies only to traditional voice calls and IP-in-
12 the-middle traffic (that is traffic that originates on a traditional telephone, is
13 carried in IP format, but then is terminated to a traditional telephone).

14 • Issue No. 13: Definition of LIS – Level 3’s proposals are clearly consistent
15 with the Act and Washington Law and policy requiring use of Local
16 Interconnection Trunks for ISP-bound and VoIP traffic. Moreover, the
17 Washington Commission favors efficient use of network resources as
18 evidenced by staff’s recommendations in the Qwest SGAT proceedings to
19 require that Qwest permit AT&T and other IXCs to use their Feature Group D
20 networks for local traffic. Thus, there is no need to argue about the definition
21 of “LIS”.

22 • Issue No. 17: Qwest and Level 3 have harmoniously operated their networks
23 for many years. Accordingly, there is no need to replicate language
24 addressing which carrier is responsible for carrying locally-dialed calls
25 originating on its network to the other carrier’s network in this particular
26 provision of the contract.

27 • Issue No. 19: As with Issues 1D, 1E and others, Level 3’s contract
28 provisions are consistent with state and federal requirements addressing POIs,
29 so Level 3 has withdrawn its changes to Section 19.

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31 //

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1 **III. SECTIONS OF THE CONTRACT LEVEL 3 HAS UPDATED**

2 **Q. CAN YOU LIST THE SECTIONS OF LEVEL 3'S CONTRACT PROPSALS**
3 **THAT LEVEL 3 HAS UPDATED AND BRIEFLY EXPLAIN THE TECHNICAL,**
4 **POLICY OR BUSINESS REASONS FOR THESE CHANGES?**

5 **A. Yes. Level 3 has updated the following language from dispute. Beside each provision**
6 **updated, I provide a brief explanation of our reasoning:**

- 7 • Issue No. 2C: New Definition – “Transit Limitation” makes clear that Level 3
8 will terminate to Qwest only that IXC traffic which is destined for Qwest local
9 telephone numbers. This is something Level 3 can do within its softswitch
10 network today. And it assures Qwest that traditional IXC telephone calls (*i.e.*
11 traditional long distance calls) will not be sent to Qwest that Qwest will have
12 to route to third party local carriers.
- 13 • Issue No. 3: Section 7.3.6.3 is a very technical way for saying that so long as
14 Qwest requires that Level 3 accept \$0.0007 per minute of use as compensation
15 for termination of Qwest-originated locally-dialed calls to AOL, Earthlink and
16 other ISPs served by Level 3's network, that all information services and other
17 traffic that should be rated at local reciprocal compensation rates be rated at
18 the same rate. Stated differently, a telephone number is like an IP address on
19 the Internet. Just as the Internet doesn't care where a server containing a
20 webpage resides, so too a telephone network does not care where a telephone
21 is located. So long as calls routes to LIS trunks connecting the two carriers,
22 the calls will complete.
- 23 • Issue No. 3C: Level 3 revised Section 7.3.6.1 to make clear that so long as
24 Qwest requires that Level 3 accept the benefit of a lower reciprocal
25 compensation rate for terminating Qwest-originated traffic – \$0.0007 per
26 minute – that all traffic be exchanged at the same rate. This makes sense
27 because otherwise ILECs could apply lower rates to traffic that CLECs
28 terminate for them but higher rates to traffic they terminate for CLECs. This
29 is why the FCC required a mirroring rule: to keep rates for traffic unified and
30 reduce opportunities for ILEC regulatory arbitrage. Accordingly, when an
31 ILEC breaks the mirroring rule, the state reciprocal compensation rate applies.
32 Given too that the FCC initially reduced intercarrier compensation rates for
33 ISP-bound traffic at a time when dialup was increasing but CLEC
34 interconnection architecture had not deeply penetrated ILEC networks, it
35 makes sense to require a higher rate where CLEC's carry traffic on CLEC
36 owned or leased facilities to and from ILEC local calling areas.

- 1 • Issue No. 4: Level 3 revised Section 7.3.4 to harmonize with changes made in
2 7.3.6.1 and for the essentially same reasons as stated in Issue 3C.
- 3 • Issue No. 5: Level 3 revised Qwest's reference to the SGAT to give Level 3
4 the benefit of its bargain: a contract that cannot be usurped by another
5 document in which Level 3 has no control.

6 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

7 **A. Yes.**