

Qwest

1600 7th Avenue, Room 3206
Seattle, Washington 98191
Phone: (206) 345-1574
Facsimile (206) 343-4040

Lisa A. Anderl

Associate General Counsel
Regulatory Law Department

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Via E-mail and U.S. Mail

Ms. Carole J. Washburn, Executive Secretary
Washington Utilities & Transportation Commission
1300 S. Evergreen Park Drive SW
P.O. Box 47250
Olympia, WA 98504-7250

Re: Docket No. UT-053039 – Level 3 Communications
Supplemental Authority

Dear Ms. Washburn:

Qwest Corporation (“Qwest”) hereby files the following document as supplemental authority: Recommendation on Motion for Summary Disposition entered on January 18, 2006 in *The Complaint of Level 3 Communications, LLC, against Qwest Corporation Regarding Compensation for ISP-Bound Traffic*, Docket No. C-05-721, State of Minnesota Office of Administrative Hearings for the Public Utilities Commission (the “Order”). The Order is attached hereto.

In particular, Qwest would like to draw the Commission’s attention to the following passages from the Recommended Decision:

VNXX routing is an issue with tremendous policy and financial implications, not limited to its impact on ISP-bound traffic. It changes one of the fundamental assumptions upon which the Act and most existing regulation of telephone carriers is premised, which is that there is a distinction between local service and long-distance service and that the compensation regimes for the two types of service are different. Today’s technology may render these distinctions less meaningful, as Level 3’s argument suggests, but the compensation regime has not yet caught up with the technology. The ALJ has difficulty accepting the proposition, advanced by Level 3, that the FCC would

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have endorsed such a fundamental change in approach without mentioning it at all. (*Order at p. 10.*)

The distinction between ISP-bound FX traffic and VNXX traffic could be important in determining whether some form of termination compensation is due, whether under the reciprocal compensation provisions of § 251(b) or the hybrid regime for ISP traffic. For example, Qwest offers a service called FX, which permits a customer to purchase a connection in the local calling area associated with a telephone number, for which it pays the local exchange rate, as well as a private line transport to wherever its equipment is located. The customer who receives the calls pays for the dedicated transport, not the calling party. Qwest maintains that it requires its ISP customers to use the same arrangement and to pay full retail rates for the private line. Because the private line terminates in the same local calling area as the assigned NPA/NXX, Qwest considers that call to be local. As described by the parties, VNXX routing achieves the functionality of FX service, but no one pays anything (access charges or dedicated transport) for traffic that crosses local calling areas and would otherwise be considered toll traffic. The ALJ cannot assume on this record that VNXX and FX traffic are the same thing. (*Order at p. 12.*)

Sincerely,

Lisa A. Anderl

LAA/llw

cc: Rogelio E. Peña (*via e-mail and U.S. Mail*)