

[Service Date September 27, 2002]

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION

	)	
In the Matter of the Petition for	)	
Arbitration of an Interconnection	)	
Agreement Between	)	
	)	DOCKET NO. UT-023043
LEVEL 3 COMMUNICATIONS, LLC.,	)	
	)	SECOND SUPPLEMENTAL
and	)	ORDER
	)	
CENTURYTEL OF WASHINGTON,	)	PRE-ARBITRATION
INC.,	)	CONFERENCE ORDER
	)	
Pursuant to 47 U.S.C. Section 252	)	
.....	)	

1     **Proceeding:** Docket No. UT-023043 is a petition filed by Level 3 Communications, LLC., (Level 3) for arbitration pursuant to 47 U.S.C. ' ' 252(b)(1) of the Telecommunications Act of 1996, Public Law No. 104- 104, 101 Stat. 56 (1996) (Telecom Act), of a proposed interconnection agreement between Level 3 and CenturyTel of Washington, Inc., (CenturyTel).

2     **Conference:** The Commission convened a prehearing conference in this docket at Olympia, Washington on September 24, 2002, before Arbitrator Dennis J. Moss.

3     **Appearances.** Rogelio E. Peña, Peña & Associates, LLC, Boulder, Colorado, represents Level 3 Communications. Calvin K. Simshaw, corporate counsel for CenturyTel, Vancouver, Washington, represents CenturyTel. Richard A. Finnegan, attorney, Olympia, Washington, represents the Washington Independent Telephone Association (WITA), which filed a petition to intervene. Contact information provided at the conference for the parties' representatives is attached as Appendix A to this order.

4     **Petition for Intervention.** WITA filed its Petition To Intervene in Arbitration on September 16, 2002. Level 3 requested that it be given an opportunity to file a written response prior to any ruling on the Petition and the request was granted. Level 3 is required to file its response by October 1, 2002.

5       **Protective order.** The parties asked the Commission to enter a protective order in this docket pursuant to RCW 34.05.446, RCW 80.04.095, and WAC 480-09-425, as permitted by the Commission's Policy and Interpretive Statement governing process in interconnection agreement arbitration proceedings, to protect the confidentiality of proprietary information. The request was granted, and a protective order has been entered.

6       **Discovery.** Parties desire to engage in discovery of information in the proceeding. Discovery was authorized in the Order On Arbitration Procedure; Appointment of Arbitrator; Notice of Prehearing Conference entered August 16, 2002.

7       **Challenge to Commission Jurisdiction.** CenturyTel raises through its Response to Level 3's Petition the question whether the Commission has jurisdiction to conduct this arbitration proceeding. The issue of jurisdiction is potentially dispositive. Accordingly, the question is set for early briefing. The parties are required to file simultaneous initial memoranda of law on the jurisdictional issues on October 7, 2002, and reply memoranda on October 15, 2002. Although WITA's Petition To Intervene remains pending, WITA may file *amicus* initial and reply memoranda according to this schedule.

8       **Issues.** The issues are as stated in the parties' respective filings in this docket. Several issues already have been refined or withdrawn and others may be refined or withdrawn as the parties continue working on these matters in this, and in other, jurisdictions. As the date for hearing approaches, the Commission will convene one or more pre-arbitration conferences to determine what issues remain in dispute.

9       **Waiver, And Joint Request For Extension Of Statutory Deadline:** Level 3 and CenturyTel request that the Commission extend the statutory deadline for resolving arbitration disputes that is established under the Telecom Act. The parties report that they are involved in arbitration proceedings together in several state jurisdictions and that scheduling conflicts do not allow them to prepare and present their evidence and arguments in this proceeding in the time-frame established under the Telecom Act.

10       Level 3 and CenturyTel stated on the record of the pre-arbitration conference that they waive all rights they may have to challenge or otherwise seek to overturn or nullify as untimely the Commission's resolution of the disputed issues in this arbitration so long as the Commission enters its order resolving those issues on or before January 10, 2003. The parties further agree that their waiver shall apply in any legal forum whatsoever.

11       **Hearing schedule.** Following discussion with the parties the Commission establishes the following schedule for this proceeding:

Simultaneous direct testimony	October 18, 2002
Simultaneous rebuttal testimony	November 1, 2002
Hearing	November 7-8, 2002
Simultaneous post-hearing briefs	December 6, 2002
Arbitrator's report	January 10, 2003

- 12 **Additional Pre-Arbitration Conferences.** The Commission will convene by notice one or more additional pre-arbitration conferences in this matter, to address the refinement of issues, witness lists and order of presentation, organizing and pre-marking exhibits, and other preliminary matters.
- 13 **Notice of Hearing.** The Commission will convene an arbitration hearing in this matter, beginning at **9:30 a.m., on Thursday, November 7, 2002**, in the Commission's Hearing Room, Room 206, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.
- 14 **Document preparation and process issues.** Parties must provide an original and seven (7) copies of each document filed with the Commission. Appendix B states relevant Commission rules and other directions for the preparation and submission of evidence and for other process in this docket. Parties are expected to comply with these provisions.

Dated at Olympia, Washington, and effective this 27th day of September, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DENNIS J. MOSS  
Arbitrator

**NOTICE TO PARTIES:** Any objection to the provisions of this Order must be filed within ten (10) days after the date of mailing of this statement, pursuant to WAC 480-09-460(2). Absent such objections, this pre-arbitration conference order will control further proceedings in this matter, subject to Commission review.