

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

PAC-WEST TELECOMM, INC.,	)	DOCKET UT-053036
	)	(consolidated)
Petitioner,)	
	)	ORDER 09
v.)	
)	
QWEST CORPORATION,	)	PREHEARING CONFERENCE
	)	ORDER
Respondent.)	
.....)	
)	
LEVEL 3 COMMUNICATIONS, LLC,	)	DOCKET UT-053039
	)	(consolidated)
Petitioner,)	
	)	ORDER 09
v.)	
	)	PREHEARING CONFERENCE
	)	ORDER
QWEST CORPORATION,)	
)	
Respondent)	
.....)	

1 **NATURE OF PROCEEDINGS.** Dockets UT-053036 and UT-053039 involve petitions for enforcement of interconnection agreements. Pac-West Telecomm, Inc. (Pac-West) and Level 3 Communications, LLC (Level 3), filed petitions for enforcement of terms of their interconnection agreements with Qwest Corporation (Qwest) relating to payment for terminating traffic. The disputes center primarily on whether Pac-West and Level 3 are entitled to compensation for “VNXX”¹ traffic.

¹ The Commission has previously defined “VNXX” or “Virtual NXX” in these proceedings to refer to “a carrier’s acquisition of a telephone number for one local calling area that is used in another geographic area. The call appears local based on the telephone number.” See *Pac-West Telecomm, Inc. v. Qwest Corporation*, Docket UT-053036, Order 05, Final Order Affirming and Clarifying Recommended Decision, n.1 (Feb. 10, 2006).

2 Qwest sought judicial review of the final orders of the Washington Utilities and
Transportation Commission (Commission) in these proceedings and on April 19,
2007, a magistrate judge for the United States District Court for the Western District
of Washington entered an order reversing and remanding the cases to the Commission
for decision.² The cases are now before the Commission on remand. These matters
are now consolidated for decision.

3 **CONFERENCE.** The Commission convened a prehearing conference in this docket
at Olympia, Washington on September 17, 2008. The matter was heard before
Administrative Law Judge Ann E. Rendahl.

4 **APPEARANCES.** Gregory J. Kopta, Davis Wright Tremaine, LLP, Seattle,
Washington, represents the petitioner, Pac-West. Gregory Rogers, Regulatory
Counsel, Broomfield, Colorado, and Lisa Rackner, McDowell & Rackner, Portland,
OR, represent Level 3. Lisa Anderl, attorney, Seattle, Washington, represents the
respondent, Qwest. Contact information provided at the conference for the parties'
representatives is attached as Appendix A to this Order.

5 **PETITIONS FOR INTERVENTION.** No party appeared at the conference seeking
to intervene.

6 **DISCOVERY.** The Commission invoked its discovery rules in these dockets
pursuant to WAC 480-07-400 in the initial prehearing conference order, Order 01,
entered in each docket.

7 **PROTECTIVE ORDER.** The Commission has issued a protective order, Order 02,
in each docket. The parties agree that there is no need to change the existing
protective orders. The parties will need to ensure that individuals participating in the
proceedings sign and file the appropriate exhibits to the protective orders.

8 **PROCEDURAL SCHEDULE.** Following discussion at the conference, the
presiding administrative law judge deferred establishing a procedural schedule in
these consolidated matters, pending a decision by the Federal Communications
Commission (FCC) expected on or before November 5, 2008. The FCC's decision is

² *Qwest Corp. v. Washington Utils. & Transp. Comm'n*, 484 F.Supp.2d 1160 (Apr. 9, 2007).

required under a Writ of Mandamus entered by the United States Court of Appeals for the D.C. Circuit, directing the FCC to “explain the legal basis for its ISP-bound compensation rules” established in its *ISP Remand Order* by that date.³ As the Commission is likely to require briefing from the parties on the FCC’s decision, the Commission will schedule a prehearing conference to be held soon after November 5, 2008, to discuss scheduling briefing and establishing a procedural schedule in these proceedings.

9 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file with the Commission an original plus **four (4)** copies of all pleadings, motions, briefs, and other prefiled materials. These materials must conform to the format and publication guidelines set forth in WAC 480-07-395 and 480-07-460, and must be three-hole punched with *oversized* holes to allow easy handling. The Commission may require a party to refile any document that fails to conform to these standards.

10 All filings must be mailed or delivered to the Commission’s Executive Director and Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive, S.W. Olympia, Washington 98504-7250. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service.

11 An electronic copy of all filings must be provided through the Commission’s Web Portal (www.utc.wa.gov/e-filing) or by e-mail delivery to records@utc.wa.gov. Alternatively, Parties may furnish an electronic copy by delivering with each filing a 3.5-inch IBM-formatted high-density diskette or CD including the filed document(s). Parties must furnish electronic copies in MS Word 6.0 (or later) supplemented by a separate file in .pdf (Adobe Acrobat) format. Parties must follow WAC 480-07-140(5) in organizing and identifying electronic files. **Electronic documents that are redacted versions that mask confidential information, should be filed exclusively in “read only” .pdf format.**

³ See *In re Core Communications, Inc.*, 531 F.3d 849, 850 (C.A.D.C. 2008).

- 12 **ELECTRONIC SUBMISSION OF DOCUMENTS.** The presiding officer grants a one-day extension of the paper-filing requirement under WAC 480-07-145(6), allowing electronic submission of documents with the Commission on the filing deadline. Parties must submit documents through the Commission's Web Portal (www.utc.wa.gov/e-filing) or by e-mail to records@utc.wa.gov, and file an original, plus **four (4)** paper copies, of the documents with the Commission by the following business day. Finally, to perfect filing, parties must provide courtesy copies of filings to the presiding administrative law judge and advisory staff identified on Appendix A to this Order as well as to the parties to the proceeding.
- 13 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission does have limited ability to provide dispute resolution services; if you wish to explore those services, please call the Director, Administrative Law Division, at 360-664-1144.
- 14 **NOTICE TO PARTIES: Any objection to the provisions of this Order must be filed within ten (10) days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.**

Dated at Olympia, Washington, and effective September 18, 2008.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ANN E. RENDAHL
Administrative Law Judge

APPENDIX A				
PARTIES' REPRESENTATIVES DOCKETS UT-053036 & UT-053039				
PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
Pac-West	Gregory J. Kopta Davis Wright Tremaine LLP 1201 Third Avenue, Ste 2200 Seattle, WA 98101-3045	206-757-8079	206-757-7079	gregkopta@dwt.com
	Lynne Martinez			Lmartin@pacwest.com
Level 3	Gregory Rogers Attorney Level 3 Communications, LLC 1025 Eldorado Blvd. Broomfield, CO 80021	720-888-2512	720-888-5134	greg.rogers@level3.com
	Lisa Rackner McDowell &* Rackner PC 520 SW Sixth Avenue Suite 830 Portland, OR 97204			503-595-3925	503-595-3928	lisa@mcd-law.com
Qwest	Lisa Anderl Qwest Corporation 1600 7 th Avenue, Room 3206 Seattle, WA 98191	206-345-1574	206-343-4040	lisa.anderl@qwest.com
	Adam L. Sherr			adam.sherr@qwest.com
	Ted Smith			tsmith@stoel.com
	Mark Reynolds			mark.reynolds3@qwest.com

PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
Presiding Admin. Law Judge	Ann E. Rendahl 1300 S. Evergreen Pk. Dr. SW P.O. Box 47250 Olympia, WA 98504-7250	360-664-1136	360-664-2654 [ALD fax only – do not use to file]	arendahl@utc.wa.gov
Policy Advisor	Brian Thomas 1300 S. Evergreen Pk. Dr. SW P.O. Box 47250 Olympia, WA 98504-7250			bthomas@utc.wa.gov