

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

PAC-WEST TELECOMM, INC.,	)	DOCKET UT-053036
)	
Petitioner,	)	ORDER 08
)	
v.	)	ORDER OF CONSOLIDATION AND
	)	NOTICE OF PREHEARING
QWEST CORPORATION,	)	CONFERENCE
	)	(Set for September 17, 2008, at
Respondent.	)	10:00 a.m.)
)	
.....)	
)	
LEVEL 3 COMMUNICATIONS, LLC,)	
	)	DOCKET UT-053039
Petitioner,)	
	)	ORDER 08
v.)	
	)	ORDER OF CONSOLIDATION AND
QWEST CORPORATION,	)	NOTICE OF PREHEARING
	)	CONFERENCE
Respondent.	)	(Set for September 17, 2008, at
.....	)	10:00 a.m.)

1 On June 9, 2005, Pac-West Telecomm, Inc. (Pac-West), pursuant to WAC 480-07-650, filed with the Washington Utilities and Transportation Commission (Commission) in Docket UT-053036 a petition seeking enforcement of terms of its interconnection agreement with Qwest Corporation (Qwest) concerning compensation for traffic to Internet service providers (ISPs). Qwest filed counterclaims against Level 3 contesting compensation for ISP-bound traffic and the propriety of Pac-West's use of Virtual NXX, or VNXX, traffic under the parties' interconnection agreement.

2 On June 28, 2005, Level 3 Communications, LLC (Level 3), filed with the Commission in Docket UT-053039 a similar petition seeking enforcement of terms of its interconnection agreement with Qwest concerning compensation for traffic to

ISPs. Qwest also filed counterclaims against Level 3 contesting compensation for ISP-bound traffic and the propriety of Level 3's use VNXX traffic under the parties' interconnection agreement.

3 On February 10, 2006, the Commission entered orders in both Dockets UT-053036 and UT-053039 clarifying that the scope of the *ISP Remand Order* applies to all ISP-bound traffic, regardless of the point of origination and termination of the traffic.

4 On February 21, 2006, Qwest filed a petition for reconsideration of these orders. On June 9, 2006, the Commission denied Qwest's petition for reconsideration in both dockets.

5 On July 10, 2006, Qwest sought review in federal district court of the Commission's orders in Dockets UT-053036 and UT-053039. On April 9, 2007, a magistrate for the U.S. District Court for the Western District of Washington entered a decision rejecting the Commission's orders and remanding them for additional consideration.¹ The federal court rejected the Commission's findings and remanded the cases to the Commission for further proceedings not inconsistent with the court's decision.

6 While these matters were on review in federal court, Qwest filed a complaint in Docket UT-063038 against nine competitive local exchange carriers (CLECs), including Pac-West and Level 3, alleging the CLECs' use of VNXX numbering arrangements violated Qwest's tariffs, state law and public policy. On February 15, 2008, the Commission entered Order 07—Order Staying Proceeding in Dockets UT-053036 and UT-053039 until the conclusion of the complaint proceeding, after which a prehearing conference would be scheduled.² The complaint proceeding has now concluded, and these dockets are now ripe for consideration.

7 As the matters in Dockets UT-053036 and UT-053039 appear to involve related facts and principles of law, it is appropriate that they be consolidated for hearing and determination pursuant to WAC 480-07-320.

8 **STATUTORY AUTHORITY:** The Commission has jurisdiction over this matter under RCW Title 80, and has legal authority to regulate the rates, services, and practices of telecommunications companies providing service within the state of

¹ *Qwest Corporation v. Washington Utils. And Transp. Comm'n*, 484 F.Supp.2d 1160 (W.D.W. 2007).

² On August 13, 2008, the Commission entered its Order 11 – Order Granting In Part Motion for Clarification and/or Petition for Reconsideration; Denying Motion for Leave to Answer.

Washington. The statutes that apply to this matter include RCW 80.01, RCW 80.04, and RCW 80.36, including but not limited to RCW 80.01.040, RCW 80.04.020, and RCW 80.36.610. The rules that apply to this matter include those within WAC 480-120 relating to telecommunications.

9 The Commission will hear this matter under the Administrative Procedure Act (APA), particularly Part IV of RCW 34.05 relating to adjudications. The provisions of the APA that relate to this proceeding include, but are not limited to RCW 34.05.413, RCW 34.05.422, RCW 34.05.431, RCW 34.05.440, RCW 34.05.449, RCW 34.05.452, and WAC 480-07-650. The Commission will also follow its procedural rules in WAC 480-07 in this proceeding.

10 **THE COMMISSION GIVES NOTICE That the Commission will hold a prehearing conference in this matter at 10:00 a.m., on Wednesday, September 17, 2008, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**

11 The purpose of the prehearing conference is to consider requests for intervention, resolve scheduling matters including establishing dates for distributing evidence and workpapers, to identify the issues in the proceeding and determine other matters to assist the Commission in resolving the matter, as listed in WAC 480-07-430.

12 **INTERVENTION:** Persons who wish to intervene should file a petition to intervene in writing at least three business days before the date of the prehearing conference. *See WAC 480-07-355(a)*. The Commission will consider oral petitions to intervene during the conference, but strongly prefers written petitions to intervene. Party representatives must file a notice of appearance with the Commission no later than the business day before the conference. *See WAC 480-07-345(2)*. Any party or witness in need of an interpreter or other assistance should fill out the form attached to this notice and return it to the Commission. The Commission will set the time and place for any evidentiary hearings at the prehearing conference, on the record of a later conference or hearing session, or by later written notice.

13 **THE COMMISSION GIVES NOTICE that any party who fails to attend or participate in the prehearing conference set by this Notice, or any other stage of this proceeding, may be held in default under RCW 34.05.440 and WAC 480-07-450.**

14 The names and mailing addresses of all known parties and their known representatives are as follows:

Petitioner: Pac-West Telecomm, Inc.
4210 Coronado Avenue, Suite A
Stockton, CA 95204

Representative: Gregory J. Kopta
David Wright Tremaine LLP
2600 Century Square
1501 Fourth Avenue
Seattle, WA 98101-1688
gregkopta@dwt.com

Petitioner: Level 3 Communications, LLC.
1025 Eldorado Blvd.
Broomfield, CO 80021

Representatives: Lisa F. Rackner
McDowell & Rackner PC
520 SW 6th Avenue, Suite 830
Portland, OR 97204
(503) 595-3925
lisa@mcd-law.com

Erik Cecil
Corporate Counsel
Level 3 Communications LLC
1025 Eldorado Blvd.
Broomfield, CO 80021
(720) 888-1319
Eric.cecil@level3.com

Respondent: Qwest Corporation
1600 7th Avenue, Room 3206
Seattle, WA 98191

Representative: Lisa Anderl
Qwest Corporation
1600 7th Avenue, Room 3206
Seattle, WA 98191
(206) 345-1574
Lisa.anderl@qwest.com

- 15 Administrative Law Judge Ann E. Rendahl, from the Commission's Administrative Law Division, will preside during this proceeding.
- 16 The Commission will give parties notice of any other procedural phase of the proceeding in writing or on the record, as appropriate during this proceeding.

DATED at Olympia, Washington, and effective August 27, 2008.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER
Executive Director and Secretary

Inquiries may be addressed to:

Executive Director and Secretary
Washington State Utilities and
Transportation Commission
Richard Hemstad Building
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

NOTICE

Hearing facilities are accessible to persons with disabilities. Smoking is prohibited. If limited English-speaking, hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

If you need an interpreter, or have other special needs, please fill out this form and return it to Washington State Utilities and Transportation Commission, Attention: David W. Danner, 1300 S. Evergreen Park Drive SW, P. O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket : _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary
Language: _____

Hearing Impaired (Yes) _____ (No) _____

Do you need a certified sign language interpreter:

Visual _____ Tactile _____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____

Address: _____

Phone No.: (____) _____