

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

QWEST CORPORATION, Complainant, v. LEVEL 3 COMMUNICATIONS LLC, <i>et al.</i> , Respondents.	Docket No. UT-063038 PAC-WEST RESPONSES TO QWEST'S FIRST DATA REQUESTS AND REQUESTS FOR ADMISSION
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Pac-West Telecomm, Inc. ("Pac-West") provides the following responses to the First Set of Data Requests and Requests for Admission propounded by Qwest Corporation ("Qwest").

I.

GENERAL OBJECTIONS

Pac-West objects to Qwest's definitions and instructions to the extent that they seek to impose obligations exceeding those imposed by the Commission's Rules or Washington Rules of Civil Procedure. More specifically, Pac-West further objects to the definition of "Pac-West" as overly broad. Pac-West hereby incorporates these general objections into each of the specific objections and responses provided below.

II.

SPECIFIC OBJECTIONS AND RESPONSES

WUTC Docket No. UT-063038
Pac-West Response to Qwest's First Data Requests
September 11, 2006

Data Request No. 1:

Identify all specific services offered by Pac-West to ISP [*sic*] that serve end user customers in Washington. Provide a narrative description of each such service.

Response:

Pac-West objects to this request to the extent it seeks data concerning Pac-West marketing plans or efforts or customer proprietary network information, all of which is highly proprietary and is not reasonably related to any legitimate issue in this proceeding. Subject to, and without waiver of, those objections, all of the services that Pac-West offers to business customers in Washington are available to ISPs if they meet the service eligibility criteria. Pac-West offers its services on a non-discriminatory basis. Any customer seeking to purchase Pac-West services may do so and an ISP can purchase any Pac-West service. In addition ISPs are not certified. Pac-West does not track customers based on whether they market themselves as ISPs. For purposes of reciprocal compensation the ICA provides for "presumed ISP bound traffic" to be identified. Pac-West makes no such distinction with respect to whether its customers are presumed ISPs. Please see Pac-West price list for description of Pac-West's services.

Prepared by: Ethan Sprague; Counsel (objections)
Date: September 11, 2006

WUTC Docket No. UT-063038
Pac-West Response to Qwest's First Data Requests
September 11, 2006

Data Request No. 2:

Does Pac-West provide a service or services in Washington for ISPs (e.g., AOL, Earthlink, MSN, or other smaller local or regional ISPs serving Washington customers) whereby Pac-West provides *any* of the following service components related to dial-up Internet access: (1) local telephone numbers for your ISP customers to provide to their end users for access to the Internet; (2) transport from the local calling area ("LCA") (as defined by the WUTC) of the ISP end user customer to the point of points of interconnection ("POIs") of Pac-West in Washington; (3) authentication of the calling party on behalf of your ISP customer; or (4) the provision of the initial modem functionality on behalf of the ISP customer(s) whereby the protocol conversion between the analog, time division multiplexing ("TDM") signals sent by the ISP end user are converted to Internet Protocol ("IP") (and vice versa) in order to allow the ISP's end user access to and the ability to communicate with the Internet. If Pac-West provides any such components:

- a. Identify each component of each such service offered by Pac-West to ISPs that provide service to Washington customers.
- b. Identify all components of the service or services that provide telecommunications functionalities to ISPs. For each such component, identify the terms and conditions, including price, under which such services are offered or provided in Washington.
- c. Identify by web page address and name of service all web pages of your company's website that describe such services offered by you.

Response:

Pac-West objects to this request on the grounds that it is overbroad and unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence, and improperly asks Pac-West to undertake Qwest's own research in seeking extensive information on Qwest-defined "components" of every service offered to ISPs. Pac-West also objects to this request to the extent it seeks the identity of "components" or services "that provide telecommunications functionalities" as vague and ambiguous, requesting a legal conclusion, and improperly seeking interpretation of data, rather than the data itself. Pac-West further objects to this request to the extent it seeks data concerning Pac-West marketing plans or efforts or customer proprietary network information, all of which is highly proprietary and is not reasonably related to any legitimate issue in this proceeding. Pac-West also objects to the this request on the grounds that the use of the term "local" to

modify “telephone numbers” misconstrues how Pac-West obtains number resources, and the response to this request ignores that term. Subject to, and without waiver of, those objections, see response to Request No. 1.

Prepared by: Ethan Sprague; Counsel (objections)
Date: September 11, 2006

WUTC Docket No. UT-063038
Pac-West Response to Qwest's First Data Requests
September 11, 2006

Data Request No. 3:

If Pac-West obtains local telephone numbers from NANPA in Washington that are provided to ISPs, identify all specific NPA/NXXs obtained by Pac-West where some or all of the numbers related to that specific NPA/NXX are provided to ISPs.

Response:

Pac-West objects to this request on the grounds that the use of the term "local" to modify "telephone numbers" misconstrues how Pac-West obtains number resources and that the request is not reasonably calculated to lead to the discovery of admissible evidence and is unduly burdensome. Pac-West does not maintain responsive data in the manner requested, which would require Pac-West to undertake a time-consuming and expensive manual investigation of all number resources and customer records. In addition, Pac-West does not necessarily know whether a specific customer is an ISP and thus may not be able to develop fully responsive information. Subject to, and without waiver of these objections, see Response to Data Request No. 1.

Prepared by: Ethan Sprague; Counsel (objections)

Date: September 11, 2006

WUTC Docket No. UT-063038
Pac-West Response to Qwest's First Data Requests
September 11, 2006

Data Request No. 4:

If Pac-West provides modem functionality (*e.g.*, answering the ISP call on behalf of the ISP and performing the ongoing TDS/IP and IP/TDM conversion) for ISP customers that provide ISP service to Washington customers, identify the specific geographical location of the equipment that provides such modem functionality for ISP customers, and describe each specific element or component of the modem functionality provided to ISPs by Pac-West.

Response:

Pac-West objects to this request on the grounds that it is vague and ambiguous in failing to define "modem functionality" or "element or component of the modem functionality," that it improperly seeks interpretation of data, rather than the data itself, and that it is not reasonably calculated to lead to the discovery of admissible evidence. ISP modem functionality is not at issue in this proceeding, nor does the Commission have jurisdiction to consider that issue.

Prepared by: Counsel
Date: September 11, 2006

WUTC Docket No. UT-063038
Pac-West Response to Qwest's First Data Requests
September 11, 2006

Data Request No. 5:

Is Pac-West an interexchange carrier that provides intra- or interLATA interexchange services for Washington end user customers. If so, please identify if Pac-West provides such services to Washington customers, and identify each entity that provides such services.

Response:

Pac-West is registered to provide intraexchange and interexchange services in Washington, and Pac-West provides such services on a nondiscriminatory basis to customers.

Prepared by: Ethan Sprague
Date: September 11, 2006

WUTC Docket No. UT-063038
Pac-West Response to Qwest's First Data Requests
September 11, 2006

Data Request No. 6:

Excluding calls to ISPs, does Pac-West provide a service or services to Washington end users that allows such end users (whether Qwest end users or end users of Pac-West) to originate calls to a number associated with the same LCA as the NPA/NXX as the calling party (*i.e.*, to a telephone number that does not require 1+ dialing and that appears to the calling party to be a local call to a local telephone number), but where the called party is actually located in a LCA (as defined by the WUTC) different from the LCA with which the number called is associate? If so, please:

- a. identify each such service (and provide the tariff, price list, and web page where such service is described);
- b. provide a narrative description of the elements of each such service;
- c. identify which party (the calling party, the called party, or some other party) pays Pac-West for such service;
- d. describe how such service is priced to the party that pays for the service (flat-rate, usage sensitive, or some other manner);
- e. identify whether Pac-West bills Qwest reciprocal compensation for such traffic and at what rate; and
- f. whether Pac-West pays Qwest any intrastate or interstate access charges for the origination, transport, or termination of such traffic. If so, identify all specific access charge elements paid by Pac-West to other companies with regard to such service.

Response:

Pac-West objects to this request on the grounds that it is vague and ambiguous in failing to define "elements" of service and that Qwest is improperly requesting Pac-West to undertake Qwest's research of Pac-West's product offerings. Subject to, and without waiver of, these objections, please see Pac-West's price list for a description of its service offerings. Pac-West rates calls the same way Qwest does – by comparing the originating and terminating NPA-NXX of the calling and called numbers. If the NPAs are assigned to the same LCA or EAS area Pac-West's position is that the call is subject to 251(b)(5), and Pac-West will pay or bill the appropriate rate. Pac-West uses a comparison of the NPA-NXX to determine the appropriate rating of a call and does not track or rate traffic

based on the “physical location” of the customers. To the extent traffic is exchanged with Qwest, Pac-West believes Qwest has just as much information about the call characteristics as does Pac-West as both carriers serve a customer that is a party to the call.

Prepared by: Ethan Sprague; Counsel (objections)
Date: September 11, 2006

WUTC Docket No. UT-063038
Pac-West Response to Qwest's First Requests for Admission
September 11, 2006

Request for Admission No. 1:

Admit that in Washington Pac-West obtains local telephone numbers from NANPA that it provides to its ISP customers.

Response:

Deny. Telephone numbers are not "local." Telephone numbers are assigned to rate centers. Calls between two numbers are rated as local calls – if they are "locally dialed," or they are rated as toll calls. Pac-West admits that it obtains telephone numbers from the NANPA that are assigned to rate centers in Washington. Pac-West admits that it has customers that market themselves as ISPs for some or all of their business. However, ISPs are not certified. Pac-West does not track customers based on whether they market themselves as ISPs. For purposes of reciprocal compensation the ICA provides for "presumed ISP bound traffic" to be identified using the 3:1 ratio. Pac-West makes no such distinction with respect to whether its customers are presumed ISPs.

Prepared by: Ethan Sprague
Date: September 11, 2006

WUTC Docket No. UT-063038
Pac-West Response to Qwest's First Requests for Admission
September 11, 2006

Request for Admission No. 2:

Admit that in Washington Pac-West provides local telephone numbers to its ISP customers, and that such ISP customers provide to their end user customers to obtain access to the Internet through their ISP.

Response:

Deny. Telephone numbers are not "local." Telephone numbers are assigned to rate centers. Calls between two numbers are rated as local calls – if they are "locally dialed," or they are rated as toll calls. Pac-West admits that its customers, including those that market themselves as ISPs, make their telephone numbers available to the public for the normal purpose of telephone numbers – to receive and exchange telecommunications calls.

Prepared by: Ethan Sprague
Date: September 11, 2006

WUTC Docket No. UT-063038
Pac-West Response to Qwest's First Requests for Admission
September 11, 2006

Request for Admission No. 3:

Admit that in Washington Pac-West provides a service to ISPs that includes local telephone numbers obtained by Pac-West from NANPA.

Response:

Deny. See Response to Request for Admission No. 1.

Prepared by: Ethan Sprague
Date: September 11, 2006

WUTC Docket No. UT-063038
Pac-West Response to Qwest's First Requests for Admission
September 11, 2006

Request for Admission No. 4:

Admit that in Washington Pac-West provides a service to ISPs that includes transport of ISP traffic to the location of the ISP equipment (whether owned by the ISP or provided by Pac-West that answers the ISP call.

Response:

Deny. All of Pac-West's services involve the transport of customers' traffic from a point of pick up to a point of hand-off which may or may not be at the location of the customers' equipment.

Prepared by: Ethan Sprague
Date: September 11, 2006

WUTC Docket No. UT-063038
Pac-West Response to Qwest's First Requests for Admission
September 11, 2006

Request for Admission No. 5:

Admit that in Washington Pac-West provides a service to ISPs that includes authentication that the calling party is a valid customer of the specific ISP customer.

Response:

Pac-West objects to this request on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence. "Authentication" is not an intrastate telecommunications service subject to Commission jurisdiction and is not reasonably related to the legality of "VNXX" service in Washington.

Prepared by: Counsel
Date: September 11, 2006

WUTC Docket No. UT-063038
Pac-West Response to Qwest's First Requests for Admission
September 11, 2006

Request for Admission No. 6:

Admit that in Washington Pac-West provides a service to ISPs that includes the initial modem functionality (*i.e.*, whereby Pac-West provides the equipment that answers the call on behalf of the ISP and that provides the TDS-IP conversion function throughout the course of the of the ISP call).

Response:

Pac-West objects to this request on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence. "Modem functionality" is not an intrastate telecommunications service subject to Commission jurisdiction and is not reasonably related to the legality of "VNXX" service in Washington.

Prepared by: Counsel
Date: September 11, 2006

WUTC Docket No. UT-063038
Pac-West Response to Qwest's First Requests for Admission
September 11, 2006

Request for Admission No. 7:

Admit that in Washington Pac-West bills Qwest for termination of all ISP calls at \$.0007 per minute without regard to the physical location of the calling party and the physical location of the equipment that answers the call on behalf of the ISP and that provides the TDS-IP conversion function throughout the course of the of the ISP call.

Response:

Deny. Pac-West bills Qwest for all locally-dialed inbound calls that exceed a ratio of 3:1 inbound to outbound at \$.0007. As specified by the interconnection agreement between Pac-West and Qwest, such calls are presumed to be ISP-bound calls.

Prepared by: Ethan Sprague
Date: September 11, 2006

WUTC Docket No. UT-063038
Pac-West Response to Qwest's First Requests for Admission
September 11, 2006

Request for Admission No. 8:

Admit that in Washington Pac-West obtains local telephone numbers from NANPA that it provides to its non-ISP customers.

Response:

Deny. Please see the Responses to Request for Admission Nos. 1 and 2.

Prepared by: Ethan Sprague
Date: September 11, 2006

WUTC Docket No. UT-063038
Pac-West Response to Qwest's First Requests for Admission
September 11, 2006

Request for Admission No. 9:

Admit that in Washington Pac-West provides on occasion local telephone numbers to non-ISP customers even though such non-ISP customers are not physically located in the same LCA with which the telephone numbers are associated.

Response:

Deny. See Response to Request for Admission No. 8. Pac-West provides its FX service to any qualifying customer that orders such service. Pac-West does not discriminate for or against any qualifying customer.

Prepared by: Ethan Sprague

Date: September 11, 2006

WUTC Docket No. UT-063038
Pac-West Response to Qwest's First Requests for Admission
September 11, 2006

Request for Admission No. 10:

Admit that in Washington Pac-West on occasion provides local telephone numbers to non-ISP customers, even though such non-ISP customers are not physically located in the same LCA with which the telephone numbers are associated, and that such non-ISP customers of Pac-West provide those telephone numbers to customers located in the LCA associated with the numbers in order to allow them to call the customer of Pac-West on a toll-free basis.

Response:

Deny. See Response to Request for Admission No. 9. Pac-West understands customers may provide their telephone numbers to other parties with telephone numbers rated in the same local calling area in order to allow those other parties to call the Pac-West customer without incurring toll charges.

Prepared by: Ethan Sprague
Date: September 11, 2006

WUTC Docket No. UT-063038
Pac-West Response to Qwest's First Requests for Admission
September 11, 2006

Request for Admission No. 11:

Admit that in Washington some portion of the reciprocal compensation bills that Pac-West renders to Qwest represent traffic that originates in one LCA and terminates with non-ISP customers of Pac-West that are physically located in a LCA different than the LCA of the calling party.

Response:

Deny. While such traffic may exist, Pac-West does not track or use for billing purposes the physical location of its customers or Qwest's customers when placing or receiving a call. Similarly, Pac-West tracks its customers by which services they buy, not by how the customers market themselves. To the extent traffic having the characteristics described above is exchanged between the carriers Qwest has as much information as does Pac-West as to where the call originated or terminated.

Prepared by: Ethan Sprague
Date: September 11, 2006

WUTC Docket No. UT-063038
Pac-West Response to Qwest's Second Data Requests
September 25, 2006

Data Request No. 16:

State all facts upon which Pac-West relies in denying the allegations of the first sentence of paragraph 17 of Qwest's Complaint.

Response:

Pac-West objects to this request on the grounds that it is premature and unduly burdensome in seeking "all facts" on which Pac-West relies prior to the full presentation of Qwest's case in support of its complaint and the opportunity of Pac-West to engage in discovery of the facts underlying Qwest's case. Qwest, as the complainant, bears the burden to produce sufficient evidence to prove the allegations in its complaint, and Pac-West need not rely on any specific facts in order to require Qwest to produce that evidence. In addition, the nature of telecommunications traffic is complex and fact intensive, and Qwest knows or has access to the same amount of information about the nature of such traffic as Pac-West. Subject to, and without waiver of, those objections, see Pac-West's submissions in Docket No. UT-053036. Calls between parties using telephone numbers that are rated to the same local calling area are local calls for retail rating purposes and subject to section 251(b)(5) of the Act for intercarrier compensation.

Prepared by: Ethan Sprague; Counsel (objections)
Date: September 25, 2006