

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

PAC-WEST TELECOMM, INC.,)	DOCKET UT-053036
)	
Petitioner,)	ORDER 10
)	
v.)	
)	PREHEARING CONFERENCE
QWEST CORPORATION,)	ORDER
)	
Respondent.)	
)	
.....)	
)	
LEVEL 3 COMMUNICATIONS,)	DOCKET UT-053039
LLC,)	
)	ORDER 10
)	
Petitioner,)	PREHEARING CONFERENCE
)	ORDER
v.)	
)	
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 and are
consolidated for hearing and decision.

3 **CONFERENCE.** The Commission convened a prehearing conference in this docket
at Olympia, Washington on November 19, 2008, 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,
Oregon, represent Level 3. Lisa Anderl, Associate General Counsel, Seattle,
Washington, and Thomas Dethlefs, Corporate Counsel, Denver, Colorado, represent
the respondent, Qwest. Contact information provided at the conference for the
parties' representatives is attached as Appendix A to this Order.

5 **PROCEDURAL SCHEDULE.** At the September 17, 2008, prehearing 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
was 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

6 The FCC entered an Order on Remand and Report and Order and Further Notice of
Proposed Rulemaking on November 5 in response to the D.C. Circuit's Writ of
Mandamus.⁴ As the FCC entered its order on compensation for ISP-bound traffic, the

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

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

⁴ *In the Matter of High-Cost Universal Service Support*, WC Docket No. 05-337, *Federal State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link Up*, WC Docket No. 03-109, *Universal Service Contribution Methodology*, WC Docket No. 06-122, *Numbering Resource Optimization*, CC Docket NO. 99-200, *Implementation of the Local Competition*

parties agreed to establish the following schedule to address threshold legal issues in these cases:

Motions for Summary Determination **Thursday, January 15, 2009**

Responses to Motions for Summary Determination **Wednesday, February 18, 2009**

7 **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.

8 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.

9 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>](mailto: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.**

Provision in the Telecommunications Act of 1996, CC Docket No. 96-98, Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92, Intercarrier Compensation for ISP-Bound Traffic, CC Docket No. 99-68, IP-Enabled Services, WC Docket No. 04-36, FCC 08-262 (rel. Nov. 5, 2008).

- 10 **ELECTRONIC SUBMISSION OF DOCUMENTS.** Parties may submit documents electronically to the Commission on the filing deadline to expedite the filing process, but must file an original, plus **four (4)** paper copies, of the documents with the Commission by 12:00 noon on the first business day following the filing deadline established in the procedural schedule. *WAC 480-07-145(6)*. Parties may submit documents electronically through the Commission's Web Portal (www.utc.wa.gov/e-filing) or by e-mail to records@utc.wa.gov. Finally, to perfect filing, parties must simultaneously provide e-mail 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.
- 11 **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 November 20, 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
	Thomas Dethlefs 1801 California St.- 10 th Floor Denver, CO 80202	303-383-6646	303-298-8197	Thomas.dethlefs@qwest5.com
	Adam L. Sherr			adam.sherr@qwest.com
	Ted Smith			tsmith@stoel.com
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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