

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition for)	
Arbitration of an Interconnection)	DOCKET NO. UT-023042
Agreement Between)	
)	
LEVEL 3 COMMUNICATIONS, LLC.,)	SECOND SUPPLEMENTAL
)	ORDER
and)	
)	PRE-ARBITRATION
QWEST CORPORATION)	CONFERENCE ORDER
)	
Pursuant to 47 U.S.C. Section 252.)	
)	
.....)	

1 **Proceeding:** Docket No. UT-023042 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 Qwest Corporation (Qwest).

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

3 **Appearances.** Rogelio E. Peña, Peña & Associates, LLC, Boulder, Colorado, and Gregory L. Rogers, Level 3 Communications, LLC, represents Level 3 Communications. Lisa A. Anderl, Seattle, Washington, and John M. Devaney, Perkins Coie, LLP, Washington, DC, represents Qwest Corporation. Contact information provided at the conference for the parties' representatives is attached as Appendix A to this order.

4 **Petitions for Intervention.** The Commission received no requests for intervention

5 **Protective order.** The parties asked the Commission to enter a protective order in this docket pursuant to RCW 34.05.446 and RCW 80.04.095 and WAC 480-09-425, as permitted by the Interpretive Statement, 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. In this conference the parties examined WAC 480-09-480, and decided to shorten the time for responses to data requests to seven days.

7 **Motion to Dismiss.** On September 17, 2002, Qwest filed with the Commission a motion to dismiss or, in the alternative, for summary determination, stating reasons for its request. The motion was taken under advisement and a schedule for its consideration is included in the schedule for the proceeding set out below.

8 **Issues.** The parties, in their negotiations prior to the filing of the petition in this matter, were able to resolve all but one of their issues. The issue remaining is described by Level 3 as:

Should Level 3 be required to pay for trunks and facilities on the Qwest network used by Qwest to handle call placed by its end users.
Level 3 Petition, p. 5.

Qwest describes the remaining issue as:

The parties were unable to resolve whether Internet traffic should be included in the “relative use” calculations that the parties agree should be used to determine each party’s proportionate financial responsibility for local interconnection trunks.
Qwest Response, pp. 1—2.

9 **Hearing schedule.** The parties agreed upon the following schedule for the proceeding.

Level 3 response to Qwest’s motion to dismiss/summary determination	October 9, 2002
Simultaneous direct testimony	October 9, 2002
Qwest reply to Level 3 response to motion	October 16, 2002
Simultaneous rebuttal testimony	October 16, 2002
Prehearing conference (telephonic)	October 28, 2002
Hearing	October 29, 2002
Simultaneous post-hearing briefs	November 8, 2002
ALJ decision	November 27, 2002

- 10 **Notice of Prehearing Conference.** The Commission convenes a prehearing conference in this matter, to address organizing and premarking exhibits, any preliminary matters. The conference will be held at **9:30 a.m., on Monday, October 28, 2002**, in the Commission's Hearing Room, Room 206, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.
- 11 **Notice of Hearing.** The Commission convenes a hearing in this matter, beginning at **9:30 a.m., on Tuesday, October 29, 2002**, in the Commission's Hearing Room, Room 206, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.
- 12 **Document preparation and process issues.** Parties must file 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 will be expected to comply with these provisions.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARJORIE R. SCHAER
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 prehearing conference order will control further proceedings in this matter, subject to Commission review.