

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PAC-WEST TELECOMM, INC.

Petitioner,

v.

QWEST CORPORATION,

Respondent.

LEVEL 3 COMMUNICATIONS, LLC,

Petitioner,

v.

QWEST CORPORATION,

Respondent.

DOCKET NO. UT-053036

QWEST CORPORATION'S MOTION
FOR SUMMARY DETERMINATION

DOCKET NO. UT-053039

QWEST'S REQUESTED RELIEF

- 1* Qwest Corporation ("Qwest") hereby petitions the Washington Utilities and Transportation Commission ("Commission") to consider and resolve the issues remanded to the Commission by the decision of the United States Federal District Court for the Western District of Washington in *Qwest Corporation v. Washington Util. & Transp. Comm'n*, 484 F.Supp.2d 1160 (W.D. Wash. 2007) ("*Qwest v. WUTC*").

2 Pursuant to WAC 480-07-382(2), Qwest hereby specifically moves that the outstanding issues in
Docket Nos. UT-053036 and UT-053039 be resolved by summary disposition as there is no
genuine issue as to any material fact and that the counterclaims originally filed by Qwest against
Level 3 Communications LLC (“Level 3”) and Pac-West Telecomm, Inc. (“Pac-West”) be granted
as set forth with more particularity in Qwest’s request for relief below and in its supporting
Memorandum and Affidavits.

3 In the alternative, if the Commission determines that an issue of fact exists as to whether Pac-West
has improperly billed and been paid by Qwest for VNXX traffic since January 1, 2004, Qwest
asks that the Commission expeditiously set a hearing to resolve all relevant factual disputes on
that issue.

4 Qwest further requests that the Commission lift the orders staying action on the remand from
Qwest v. WUTC in Docket No. UT-053036 and UT-053039 until the completion of Docket No.
UT-063038.¹

In addition to the foregoing, Qwest respectfully requests the Commission provide the following
specific relief:

A. Rule that Qwest is not obligated to pay Pac-West or Level 3 intercarrier
compensation for VNXX ISP traffic, and order a refund for all such compensation paid by Qwest
to Pac-West and Level 3;

B. Order that interest be paid on all refunded amounts as specifically required by the
ICA between Qwest and Level 3 and Qwest and Pac-West;

C. Invalidate all Level 3 and Pac-West bills to Qwest seeking or charging reciprocal
compensation or the *ISP Remand Order* rate of \$0.0007 per minute for any of the VNXX traffic
described above;

¹ Order 07, Docket No. UT-053036 (February 15, 2008); Order 07, Docket No. UT-053039 (February 15, 2008).

D. Any and all other relief that the Commission deems appropriate.

DATED this _____ day of February, 2009.

QWEST

Lisa A. Anderl, WSBA #13236
Adam L. Sherr, WSBA #25291
1600 7th Avenue, Room 3206
Seattle, WA 98191
Phone: (206) 398-2500

Thomas Dethlefs
Qwest Law Department
10th Floor
1801 California St., Ste. 1000
Denver, CO 80202

Ted D. Smith
Stoel Rives, LLP
201 South Main St., Ste. 1100
Salt Lake City, UT 84111

Attorneys for Qwest Corporation