

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

ELECTRIC LIGHTWAVE, LLC.,
Petitioner,
v.
QWEST CORPORATION,
Respondent.

DOCKET NO. UT-063040

QWEST CORPORATION'S ANSWER TO
PETITION FOR ENFORCEMENT OF
INTERCONNECTION AGREEMENT

1 Pursuant to WAC 480-07-650(2), respondent Qwest Corporation ("Qwest") hereby responds to
and answers the Petition for Enforcement of Interconnection Agreement ("Petition") that
petitioner Electric Lightwave, LLC ("ELI") filed on or about May 31, 2006. This answer is
also supported by the attached Declaration of William R. Easton.

I. RESPONSE TO ALLEGATIONS IN THE PETITION

2 Unless specifically admitted in this section, Qwest denies each and every allegation in the
petition. Qwest does not dispute the allegations in paragraphs 1 and 2 regarding the parties to
this petition. Qwest, however, does not know the extent to which ELI has been authorized by
the Commission to provide service in Washington.

II. JURISDICTION

3 Qwest admits that the Commission has jurisdiction over this proceeding.

III. BACKGROUND

- 4 Qwest admits the allegations in paragraph 4 of the Petition regarding the ICA.
- 5 Qwest admits that ELI has correctly quoted sections (A)2.22 and (C)2.3.4.1.1 of the ICA in paragraphs 5 of the Petition. However Qwest states that the provisions speak for themselves.
- 6 With regard to paragraph 6 of the Petition, Qwest admits that ELI has correctly quoted section (C)2.3.8.1 of the ICA and states that that provision and the provisions of (C)2.3.8.2.1 speak for themselves.
- 7 Answering paragraph 7, Qwest admits that it paid ELI for terminating local and ISP-bound traffic since the ICA became effective. Qwest further admits that in January 2005 it began withholding payment to ELI for traffic that Qwest concluded was virtual NXX (“VNXX”) traffic. Qwest provided ELI with a narrative explanation of Qwest’s view of how foreign exchange (“FX”) service and VNXX differ (Attachment A hereto) and further provided ELI with a detailed explanation as to how it determined that the traffic was VNXX (Attachment B hereto). Qwest further admits that the amount in dispute as of the filing of the Petition is \$280,360.12.
- 8 Qwest admits the allegations in paragraphs 8 and 9 of the Petition regarding attempts at dispute resolution and the provision of notice of filing the Petition.
- 9 Qwest denies the allegations in paragraph 10 of the Petition that Qwest has changed its interpretation of what constitutes local traffic. Qwest’s interpretation has been consistent, and Qwest began withholding compensation for VNXX traffic when it realized that VNXX was being used and that carriers were demanding intercarrier compensation for traffic that, in Qwest’s view, is not local traffic and is not otherwise compensable.

10 Qwest is without sufficient information regarding the truth of the allegations in paragraph 11 of the Petition to admit or deny those allegations, and Qwest therefore denies the same.

11 Qwest states that the allegations in paragraph 12 of the Petition constitute conclusions of law, and as such do not contain allegations which Qwest must admit or deny. Qwest is unaware of the facts upon which ELI relies to claim that the Pac-West case is similar to this case and as noted above, is unaware of ELI's specific network configurations. Qwest therefore cannot admit or deny the factual allegations in this paragraph. Qwest admits that the Commission decision in the Pac-West case, if applicable to the facts and law in this case, would result in a grant of ELI's Petition. Qwest continues to respectfully disagree with that decision, and the admission contained herein is without waiver of any rights and remedies Qwest may have on appeal of that decision.

12 With respect to ELI's prayer for relief in paragraph 13, Qwest states that the prayers do not contain allegations to which Qwest must admit or deny.

IV. COUNTERCLAIMS

13 Qwest states that it would raise counterclaims with regard to the ELI's use of VNXX service. However, consistent with recent Commission decisions on the issue of counterclaims in enforcement proceedings *Level 3 Communications LLC v. Qwest Corporation*, Docket No. UT-053039 ("*Level 3*"), and *Pac-West v. Qwest Corporation*, Docket No. UT-053036 ("*Pac-West*"), Qwest will not present those counterclaims in this Answer. Qwest does not intend to waive these counterclaims, and believes that a full adjudicative proceeding in the pending Docket No. UT-063038 will provide an adequate forum in which to raise those issues.

14 WHEREFORE, Qwest respectfully requests the Commission not make any findings or conclusions in this docket regarding the propriety of VNXX traffic, as that issue has been determined to be more appropriately heard in a complaint proceeding, and such complaint is

on file under Docket No. UT-063038. Qwest further requests that the Commission make no findings or conclusions as to whether ELI's traffic is FX or VNXX. ELI's Petition seems to suggest, at paragraph 11, that it seeks a determination that its traffic is true FX as opposed to VNXX. Such a determination would potentially insulate ELI from the effects of any decision on VNXX traffic in general, a decision the Commission has not yet made. Thus, a decision on this issue should not be made unless such determination is material to the outcome in this case. Qwest further requests that any such determinations, if made, only occur after a full record has been developed through a hearing.

DATED this 16th day of June, 2006.

QWEST

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