

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

**IN THE MATTER OF LEVEL 3)
COMMUNICATIONS, LLC'S PETITION)
FOR ARBITRATION PURSUANT TO)
SECTION 252(B) OF THE)
COMMUNICATIONS ACT OF 1934, AS)
AMENDED BY THE)
TELECOMMUNICATIONS ACT OF 1996,)
AND THE APPLICABLE STATE LAWS)
FOR RATES, TERMS, AND CONDITIONS)
OF INTERCONNECTION WITH QWEST)
CORPORATION)
)
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)
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_____)**

Docket No. _____

**PETITION OF LEVEL 3
COMMUNICATIONS, LLC**

**APPENDIX B
DISPUTED POINTS LIST**

Joint Issues Matrix
Qwest Corporation/Level 3 Communications
Dated January 26, 2006

Level 3 Terms in Bold Underline (opposed by Qwest). *Qwest Terms in Bold Italics (opposed by Level 3.)*

Agreed terms in normal text.

Issue Number/ ICA Section	Issue Description	Disputed Terms	Qwest Position	Level 3 Position
TIER I ISSUES	POINT OF INTERCONNECTION			
Issue 1A	Level 3's statement of issue: Does the federal Act permit Level 3 to establish a single point to interconnect its network to Qwest's network, and further require each party to bring its originated traffic to the SPOI without requiring the other carrier to pay the originating carrier's costs associated with its network design?	<p><u>7.1.1 This Section describes the Interconnection of Qwest's network and CLEC's network for the purpose of exchanging Telecommunications Including Telephone Exchange Service And Exchange Access traffic. Qwest will provide Interconnection at any Technically Feasible point within its network.</u></p> <p><u>7.1.1.1 Establishment of SPOI: Qwest agrees to provide CLEC a Single Point of Interconnection (SPOI) in each Local Access Transport Area (LATA) for the exchange of all telecommunications traffic. The SPOI may be established at any mutually agreeable location within the LATA, or, at Level 3's sole option, at any technically feasible point on Qwest's network. Technically feasible points include but are not limited to Qwest's end offices, access tandem, and local tandem offices.</u></p> <p><u>7.1.1.2 Cost Responsibility. Each Party is</u></p>	<p>Level 3's SPOI language is inappropriate from a network standpoint</p> <p>Level 3 mischaracterizes the issue as having to do with its right to interconnect at a single point in the LATA and Qwest's obligation on its side of the Point of Interconnection ("POI"). However, the real issue is whether Qwest should be required to provide interconnection where it is not technically feasible or to provision/build transport facilities to Level 3 without compensation.</p> <p>Qwest's proposed language does not prohibit SPOI; in fact it allows for SPOI</p>	<p>The federal Communications Act recognizes Level 3's right to interconnect its network with Qwest's network at a single point within a LATA in order to appropriately balance the inherent network efficiencies and business equities entailed when a legacy network and a competitive network are required to interconnect.. In balancing the interests of CLECs against the competitive advantages and legacy technology of the ILEC, the FCC has held that once that point is established, each party is responsible for routing its originating traffic to</p>

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	<p>3 for costs incurred by Qwest to provide the use of its network in offering interconnection services Level 3 has ordered?</p> <p>Additional Issue Raised by Qwest: Should the Commission order operation verification audits related to VoIP traffic (7.1.1.1) and require CLEC certification of VoIP traffic prior to the use of Local Interconnection Services in Connection with VoIP traffic (7.1.1.2).</p>	<p><u>responsible for constructing, maintaining, and operating all facilities on its side of the SPOI, subject only to the payment of intercarrier compensation in accordance with Applicable Law. In accordance with FCC Rule 51.703(b), neither Party may assess any charges on the other Party for the origination of any telecommunications delivered to the other Party at the SPOI, except for Telephone Toll Service traffic outbound from one Party to the other when the other Party is acting in the capacity of a provider of Telephone Toll Service, to which originating access charges properly apply.</u></p> <p><u>7.1.1.3 Facilities included/transmission rates. Each SPOI to be established under the terms of this Attachment shall be deemed to include any and all facilities necessary for the exchange of traffic between Qwest's and Level 3's respective networks within a LATA. Each Party may use an Entrance Facility (EF), Expanded Interconnect Channel Termination (EICT), or Mid Span Meet Point of Interconnection (POI) and/or Direct Trunked Transport</u></p>	<p>under conditions that have been found acceptable by other similarly situated carriers and Commissions throughout Qwest's 14 state territory.</p> <p>Level 3's language, which allows interconnection "on" Qwest's network is ambiguous and creates the probability of future disputes, and thus should be rejected. Level 3's language on "technically feasible" interconnection is far too broad in identifying access and local tandems as technically feasible for all traffic. This fails to recognize the distinctly different functions performed by toll and local tandems and, if applied, literally could require substantial and</p>	<p>that single point of interconnection (SPOI). Each party is responsible for their own costs of interconnection and their own network-design costs to route their customers' traffic to the SPOI.</p> <p>Qwest's language tilts this balance by inappropriately imposing costs upon Level 3 and the competitive community by virtue of its mandate that the interconnection take place deep within Qwest's own network, at Qwest's end office switches and a various tandem switches.</p> <p>In addition, by rejecting the "technically feasible" standard embraced by</p>

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		<p><u>(DTT) at DS1, DS3, OC3 or higher transmission rates as, in that Party's reasonable judgment, is appropriate in light of the actual and anticipated volume of traffic to be exchanged. If one Party seeks to establish a higher transmission rate facility than the other Party would establish, the other Party shall nonetheless reasonably accommodate the Party's decision to use higher transmission rate facilities.</u></p> <p><u>7.1.1.4 Each Party Shall Charge Reciprocal Compensation for the Termination of Traffic to be carried. All telecommunications of all types shall be exchanged between the Parties by means of from the physical facilities established at Single Point of Interconnection Per LATA onto its Network Consistent With Section 51.703 of the FCC's Rules:</u></p> <p><u>7.1.1.4.1 Level 3 may interconnect with Qwest at any technically feasible point on Qwest's network for the exchange of telecommunications traffic. Such technically feasible points include but are not limited to Qwest access tandems or Qwest local tandems. When CLEC is</u></p>	<p>unnecessary modification of Qwest's network. Because Level 3's language ignores current network architectures and their limitations, its language should be rejected. (See Linse Direct at 3-11).</p> <p>Level 3 also objects to Qwest's proposed sections 7.1.1.1 and 7.1.1.2 (both of which relate to VoIP). This issue is confusing because Level 3 removed Qwest's proposed language related to operation verification audits and certification and used contract sections 7.1.1.1 and 7.1.1.2 to introduce issues related to SPOI. Qwest objects to Level 3's versions of 7.1.1.1 and 7.1.1.2 for the reasons set forth above and as addressed in the testimony</p>	<p>the FCC, Qwest attempts to throttle the efficiency of the Level 3's network architecture by limiting what type of traffic may be exchanged. For example, Qwest's proposal omits any references to Section 251(b)(5) for purposes of defining the type of traffic that may be exchanged at the POI. Qwest's proposed terms also omit any reference to interLATA and VoIP or other IP Enabled traffic as traffic that may be exchanged at the POI.</p> <p>Finally, Level 3 opposes Qwest's proposed language that would require Level 3 to verify the equipment of its end users (7.1.1.2.) First, Level 3 has no control –</p>

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		<p><u>interconnected at the SPOI, separate trunk groups for separate types of traffic may be established in accordance with the terms hereof. No separate physical interconnection facilities, as opposed to separate trunk groups within SPOI facilities, shall be established except upon express mutual agreement of the Parties.</u></p>	<p>of Mr. Easton and Mr. Linse. That aside, Qwest's proposed sections 7.1.1.1 and 7.1.1.2 must be retained. It is critical to properly determine if traffic legitimately qualifies as VoIP traffic in order to assure that the ESP exemption and the proper intercarrier compensation regime is properly applied to traffic claimed to be VoIP. Given that these determinations rely upon correct reporting by the parties and the proper application of the definition of VoIP, it is essential that parties certify their levels of VoIP traffic and be subject to operation audits to verify the accuracy of their reporting. There are numerous examples in agreed-to language where the parties have agreed to</p>	<p>nor should it – over the equipment and configurations used by 3rd party end-users. Indeed, end-users have been afforded the right pursuant to <i>Husb-A-Phone Corp. v. United States</i>, 238 F.2d 266 (D.C.Cir.1956) and <i>Cartierphone v. AT & T</i>, 13 F.C.C.2d 420, <i>recon. Denied</i>, 14 F.C.C.2d 571 (1968), to provide all types of their own CPE to originate calls.</p>
		<p><i>7.1.1 This Section describes the Interconnection of Qwest's network and CLEC's network for the purpose of exchanging Exchange Service (EAS/Local traffic), IntraLATA Toll carried solely by local exchange carriers and not by an IXC (IntraLATA LEC Toll), ISP-Bound traffic, and Jointly Provided Switched Access (InterLATA and IntraLATA) traffic. Qwest will provide Interconnection at any Technically Feasible point within its network. Interconnection, which Qwest currently names "Local Interconnection Service" (LIS), is provided for the purpose of connecting End Office Switches to End Office Switches or End Office Switches to local or Access Tandem Switches for the exchange of Exchange Service (EAS/Local</i></p>	<p>Qwest's proposed language is aimed at impeding Level 3's ability to use interconnection trunks to transport VoIP traffic. Level 3's proposal to resolve Issue 2 would allow the parties to exchange all types of traffic over a common set of interconnection</p>	

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		<p><i>traffic); or End Office Switches to Access Tandem Switches for the exchange of IntraLATA LEC Toll or Jointly Provided Switched Access traffic. Qwest Tandem Switch to CLEC Tandem Switch connections will be provided where Technically Feasible. New or continued Qwest local Tandem Switch to Qwest Access Tandem Switch and Qwest Access Tandem Switch to Qwest Access Tandem Switch connections are not required where Qwest can demonstrate that such connections present a risk of Switch exhaust and that Qwest does not make similar use of its network to transport the local calls of its own or any Affiliate's End User Customers.</i></p> <p><i>7.1.1.1 CLEC agrees to allow Qwest to conduct operational verification audits of those network elements controlled by CLEC and to work cooperatively with Qwest to conduct an operational verification audit of any other provider that CLEC used to originate, route and transport VoIP traffic that is delivered to Qwest, as well as to make available any</i></p>	<p>auditing and certification in other contexts. There is no reason audits and certification should not be applied to VoIP traffic. (See Brotherson Direct at 32-40).</p>	<p>trunks and rely upon jurisdictional factors to determine compensation.</p> <p>Qwest's proposed language seeks to make Level 3 the virtual guarantor of 3rd party activities over which it has no control – and contrary to Qwest's own tariffs in which it excuses itself from liability and damages arising from the acts of third parties.</p> <p>Qwest's proposal is calculated to tilt the balance in favor of Qwest and the enhancement of its revenue stream to the detriment of the competitive telecommunications community.</p>

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		<p><i>supporting documentation and records in order to ensure CLEC's compliance with the obligations set forth in the VoIP definition and elsewhere in this Agreement. Qwest shall have the right to redefine this traffic as Switched Access in the event of an "operational verification audit failure". An "operational verification audit failure" is defined as: (a) Qwest's inability to conduct a post-provisioning operational verification audit due to insufficient cooperation by CLEC or CLEC's other providers, or (b) a determination by Qwest in a post-provisioning operational verification audit that the CLEC or CLEC's end users are not originating in a manner consistent with the obligations set forth in the VoIP definition and elsewhere in this Agreement.</i></p> <p><i>7.1.1.2 Prior to using Local Interconnection Service trunks to terminate VoIP traffic, CLEC certifies that the (a) types of equipment VoIP end users will use are consistent with the origination of VoIP as defined in this Agreement; and (b) types of configurations that VoIP end users will use to originate calls using IP technology</i></p>		<p>In Section 7.1.1.1, Qwest seeks to gain the unilateral advantage of determining in what event and under what circumstances it is able to re-rate traffic to a higher revenue generating category irrespective of the dispute resolution process established in the interconnection agreement.</p>

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Issue No. 1B Sec. 7.1.2	<p>Level 3's Statement of Issue: Whether Qwest may compel Level 3 to later negotiate the method of interconnection, and whether Level 3 may establish a single point of interconnection.</p> <p>Qwest's Statement of the Issue: Whether Qwest is entitled to be compensated by Level 3 for costs incurred by Qwest to provide the use of its network in offering interconnection services Level 3 has</p>	<p><i>are consistent with the VoIP configuration as defined in this Agreement.</i></p> <p>7.1.2 CLEC may establish a POI through: (1) a collocation site established by CLEC at a Qwest wire center, (2) a collocation site established by a third party at Qwest wire center, or (3) transport (and entrance facilities where applicable).</p> <p>CLEC shall establish one POI at any technically feasible point on Qwest's network within each LATA in which CLEC desires to exchange traffic directly with Qwest by any of the following methods:</p> <ol style="list-style-type: none"> 1. a collocation site established by CLEC at a Qwest Wire Center, 2. a collocation site established by a third party at Qwest Wire Center; 3. transport (and entrance facilities where applicable) ordered and purchased by CLEC from Qwest; or 4. Fiber meet points. 	<p>Level 3's proposed language confuses the methods of interconnection with establishment of its POI "within" Qwest's network. Level 3's language inappropriately creates a requirement to interconnect "on" Qwest's network.</p> <p>Qwest's language defines four well-established facility arrangements for establishing interconnection that provide Level 3 the flexibility to have Qwest build facilities to Level 3, or have Level 3 build to Qwest's wire center (Collocation), or meet somewhere in the middle. Qwest also provides the</p>	<p>No. Qwest's proposed terms would require Level 3 to later negotiate the points of interconnection where Level 3 interconnects with Qwest's network, and whether Level 3 will have only a single point of interconnection, or multiple points of interconnection. Qwest's proposed terms do not make clear that Level 3 will be permitted to establish a single point of interconnection, and do not specify the manner of that interconnection.</p> <p>Qwest's proposal fails to recognize the well</p>

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	ordered?	<p><u>CLEC shall establish one POI on Qwest's network in each LATA. POIs may be established by CLEC through:</u></p> <ol style="list-style-type: none"> 1. <u>a collocation site established by CLEC at a Qwest Wire Center,</u> 2. <u>a collocation site established by a third party at Qwest Wire Center;</u> 3. <u>transport (and entrance facilities where applicable) ordered and purchased by CLEC from Qwest at the applicable Qwest intrastate access rates and charges; or</u> 4. <u>Fiber meet points.</u> <p><i>7.1.2 The Parties will negotiate the facilities arrangement used to interconnect their respective networks. CLEC shall establish at least one (1) physical Point of Interconnection in Qwest territory in each LATA CLEC has local Customers. The Parties shall establish, through negotiations, at least one (1) of the following Interconnection arrangements, at any Technically Feasible point: (1) a DS1 or DS3 Qwest provided facility; (2)</i></p>	<p>flexibility to use an alternate technical feasible method not covered by the previous three options.</p>	<p>established rule that it is responsible for the costs of operating its network on its side of the POI, as is Level 3 on its side of the POI.</p> <p>Qwest's proposed terms are vague and ambiguous.</p>

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		<p><i>Collocation; (3) negotiated Mid-Span Meet POI facilities; or (4) other Technically Feasible methods of Interconnection, such as an Ocn Qwest provided facility, via the Bona Fide Request (BFR) process unless a particular arrangement has been previously provided to a third party, or is offered by Qwest as a product. Ocn Qwest provided facilities may be ordered through FCC Tariff No. 1.</i></p>		

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Issue No. 1 C Sec. 7.2.2.1.1.	<p>Level 3's Statement of Issue: Does the federal Act permit Level 3 to establish a single point to interconnect its network to Qwest's network, and further require each party to bring its originating traffic to the SPOI without requiring the other carrier to pay the originating carrier's costs associated with its network design?</p> <p>Qwest's Statement of the Issue: Whether Qwest is entitled to be compensated by Level 3 for costs incurred by</p>	<p>7.2.2.1.1 Exchange Service (EAS/Local) traffic will be terminated as Local Interconnection Service (LIS). <u>Notwithstanding references to LIS and to trunking and facilities used or provisioned in association with LIS, nothing in this Agreement shall be construed to require CLEC to pay Qwest for any services or facilities on Qwest's side of the POI in connection with the origination of traffic from Qwest to CLEC; and nothing herein shall be construed to require CLEC to pay for any services or facilities on Qwest's side of the POI in connection with the termination of traffic from CLEC by Qwest, other than reciprocal compensation payments as provided in Section hereof.</u></p>	<p>With regard to Level 3's statement of the issue, Qwest agrees that Level 3 may establish a SPOI in each LATA; however, Level 3's assertion that each party always bears the costs to bring originating traffic to the POI is not supported by the law. Section 251(d)(1) allows the recovery of the reasonable costs of interconnection, a principle not inconsistent with FCC Rules 703(b) or 709(b). Level 3's interpretation of Rules 703(b) and 709(b) is demonstrably erroneous and inconsistent with federal decisions that have construed them. Contrary to Level 3's assertion, there is no blanket rule that each party always bears all costs</p>	<p>Yes. The federal Communications Act and the cases interpreting it as related to the apportionment of costs for interconnection confirm that each party is responsible for routing its originating traffic to that single point of interconnection (SPOI). Level 3's language is necessary to clarify that each party is responsible for their own costs of interconnection and their own network-design costs to route their customers' traffic to the SPOI. With respect to the financial responsibility for transported originating traffic, the FCC adopted 47 CFR §</p>

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	<p>Qwest to provide the use of its network in offering interconnection services Level 3 has ordered?</p>		<p>on its side of the POI. In particular, the law, as applied by many state commissions and as construed by federal courts, clearly supports the conclusion that the gathering and transport of ISP traffic on an ILEC's side of the POI should be the financial responsibility of the CLEC, and that imposing such financial responsibility on the CLEC is entirely consistent with governing FCC Rules.</p> <p>Thus, Level 3's proposed language, which attempts to make its erroneous interpretation of the law a requirement of the agreement, must therefore be rejected.</p> <p>Also, from a more technical perspective, Level 3's added language relates to</p>	<p>51.703(b). Rule 51.703(b) requires that the financial responsibilities for interconnection for originating traffic should be borne solely by each carrier, and prohibits carriers from shifting costs of transporting traffic to the POI to other carriers.</p> <p>Rule 51.703(b) also unequivocally prohibits ILECs from levying charges for traffic originating on their own networks. The FCC has also expressly declined to allow an ILEC to shift the costs of transport and termination to the interconnecting CLEC.</p> <p><i>See Local Competition Order, 11 F.C.C.R. at 15588-89, p. 176.</i> Thus, Qwest is</p>

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Issue No. 1 D Sec. 7.2.2.1.2.2.	<p>Level 3's Statement of the Issue: Does the federal Act permit Level 3 to establish a single point to interconnect its network to Qwest's network, and further require each party to bring its originating traffic to the SPOI without requiring the other carrier to pay the originating carrier's costs</p>	<p>7.2.2.1.2.2. CLEC may order purchase transport services from Qwest or from a third party, including a third party that has leased the private line transport service facility from Qwest for purposes of network management and routing of traffic to/from the POI. Such transport provides a transmission path for the LIS trunk to deliver the originating Party's Exchange Service EAS/Local traffic to the terminating Party's End Office Switch or Tandem Switch for call termination. <i>Transport may be purchased from Qwest as Tandem Switch routed (i.e., tandem switching, tandem transmission and direct trunked transport) or direct routed (i.e., direct trunked transport).</i> This Section is not</p>	<p>compensation issues, which are more appropriately addressed in section 7.3, the portion of the agreement devoted to interconnection compensation issues.</p>	<p>responsible for the costs associated with transporting its originated traffic to the Level 3 POI, and Level 3 is responsible for the costs associated with transporting its originated traffic up to its POI.</p>
			<p>Level 3 mistakenly believes that removing the word "purchase" somehow relieves it of the obligation to compensate Qwest for the use of its network (see discussion in Issue 1 C). Level 3 acknowledges this transport is necessary, as it has not objected to the sentence which states, "Such transport provides a transmission path for the LIS trunk to deliver the originating Party's Exchange Service EAS/Local traffic to</p>	<p>Consistent with the discussion above, Qwest's proposal to include the term "purchase" is an improper attempt to obligate Level 3 to assume costs of operating the Qwest network on Qwest's side of the POI. The term "purchase" connotes more than just ordering the facilities in question, but rather expresses Qwest's view that Level 3</p>

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	<p>associated with its network design?</p> <p>Qwest's Statement of the Issue: Whether Qwest is entitled to be compensated by Level 3 for costs incurred by Qwest to provide the use of its network in offering interconnection services Level 3 has ordered?</p>	<p>intended to alter either Party's obligation under Section 251(a) of the Act or under Section 51.703 or 51.709 of the FCC's Rules.</p>	<p>the terminating Party's End Office Switch or Tandem Switch for call termination." It also acknowledges that it needs to order transport services. Level 3's language is designed to relieve it of financial responsibility to compensate Qwest for uses of Qwest's facilities, apparently on the basis of its mistaken legal position that each party always bears full financial responsibility for all facilities on its side of the POI. As noted, under Issue 1C, this position is wrong and must be rejected.</p> <p>Finally, compensation issues do not belong in this section but should be addressed in section 7.3.</p>	<p>should bear these inappropriate costs.</p>

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Issue No. 1 E Sec. 7.2.2.1.4	<p>Level 3's Statement of the Issue: Does the federal Act permit Level 3 to establish a single point to interconnect its network to Qwest's network, and further require each party to bring its originating traffic to the SPOI without requiring the other carrier to pay the originating carrier's costs associated with its network design?</p> <p>Qwest's Statement of the Issue: Whether Qwest is entitled to be compensated by Level 3 for costs incurred by Qwest to provide the</p>	<p>7.2.2.1.4 LIS ordered to a Tandem Switch will be provided as direct trunked transport between the Serving Wire Center of CLEC's POI and the Tandem Switch. <i>Tandem transmission rates, as specified in Exhibit A of this Agreement, will apply to the transport provided from the Tandem Switch to Qwest's End Office Switch.</i></p>	<p>For the reasons set forth in Issues 1C and 1D, Level 3's categorical assertion that it bears no financial responsibility for facilities on Qwest's side of the POI is wrong and should be rejected.</p>	<p>For the same reasons as above, Level 3 should not bear the cost of Qwest's network operations on its side of the POI.</p>

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	use of its network in offering interconnection services Level 3 has ordered?			
Section <u>7.2.2.6.1.1</u> , <u>7.2.2.6.1.2</u> , <u>7.2.2.6.1.3</u>		<p><u>7.2.2.6.1.1</u> Either party may choose to provide its own SS7 signaling (via a single set of Quad links) for its facility-based services, or to the extent available, it may purchase SS7 signaling from the other party under the terms and conditions of that party's tariff offering. Alternatively, either party may choose to obtain SS7 signaling from a third-party provider.</p> <p><u>7.2.2.6.1.2</u> In the event that LEVEL 3 constructs Quad Links, the point at which Level 3's single set of Quad Links physically link to Qwest's STP shall establish a meet point demarcating each Party's respective legal and financial responsibilities for their respective network and traffic exchanged between those networks.</p>		

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Issue No. 1 F Section 7.2.2.9.6.	<p>Level 3's Statement of the Issue: Does the federal Act require that Level 3 pay Qwest for network management costs related to Qwest's network on Qwest's side of the POI?</p> <p>Qwest's Statement of the Issue: Whether Qwest is entitled to be compensated by Level 3 for costs incurred by Qwest to provide the</p>	<p><u>7.2.2.6.1.3</u> To the extent that Qwest and Level 3 establish a mid-span meet or <u>alternative form of establishing physical linking of SS7 Quad links, they will negotiate mutually agreeable terms and conditions for the apportioning facilities costs.</u></p>	<p>For no readily apparent reason, Level 3 has removed language that specifies tandems and end offices as points where traffic terminates. Level 3's proposed language ignores Qwest's existing network architecture, creating ambiguity that may lead to later disputes. In fact, there are no other locations on Qwest's network where traffic may be delivered. Level 3 also removes the requirement to establish trunking to subtending</p>	<p>Qwest's proposed language would lead to confusion as to the proper apportionment of costs between the parties per the preceding discussion.</p> <p>Contrary to Qwest's assertion, Level 3's proposed language clarifies the responsibility of the parties and ensures that the party with the greatest inherent interest in ensuring efficiency within its network is</p>
	<p>Level 3's Statement of the Issue: Does the federal Act require that Level 3 pay Qwest for network management costs related to Qwest's network on Qwest's side of the POI?</p> <p>Qwest's Statement of the Issue: Whether Qwest is entitled to be compensated by Level 3 for costs incurred by Qwest to provide the</p>	<p><u>7.2.2.9.6</u> <i>The Parties shall terminate Exchange Service (EAS/Local) traffic on Tandem Switches or End Office Switches. CLEC may interconnect at either the Qwest local tandem or the Qwest access tandem for the delivery of local exchange traffic.</i> When CLEC is interconnected at the access tandem and when there is a DS1 level of traffic (512 BHCCS) over three (3) consecutive months between CLEC's Switch and a Qwest End Office Switch, Qwest may request CLEC to order a direct trunk group to the Qwest End Office Switch <u>for purposes of network management and routing of traffic to or from the POI. Notwithstanding references to Qwest's ability to requests that CLECs order direct trunk groups to the Qwest end</u></p>	<p>For no readily apparent reason, Level 3 has removed language that specifies tandems and end offices as points where traffic terminates. Level 3's proposed language ignores Qwest's existing network architecture, creating ambiguity that may lead to later disputes. In fact, there are no other locations on Qwest's network where traffic may be delivered. Level 3 also removes the requirement to establish trunking to subtending</p>	<p>Qwest's proposed language would lead to confusion as to the proper apportionment of costs between the parties per the preceding discussion.</p> <p>Contrary to Qwest's assertion, Level 3's proposed language clarifies the responsibility of the parties and ensures that the party with the greatest inherent interest in ensuring efficiency within its network is</p>

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	<p>use of its network in offering interconnection services Level 3 has ordered?</p>	<p><u>office, nothing in this agreement shall be construed to require CLEC to pay Qwest for any services or facilities on Qwest's side of the POI in connection with the origination of traffic from Qwest to CLEC; and nothing herein shall be construed to require CLEC to pay for any services or facilities on Qwest's side of the POI in connection with the termination of traffic from CLEC by Qwest, other than reciprocal compensation payments as provided in this Agreement. CLEC shall comply with that request unless it can demonstrate that such compliance will impose upon it a material adverse economic or operations impact. Furthermore, Qwest may propose to provide Interconnection facilities to the local Tandem Switches or End Office Switches served by the Access Tandem Switch at the same cost to CLEC as Interconnection at the Access Tandem Switch. If CLEC provides a written statement of its objections to a Qwest cost-equivalency proposal, Qwest may require it only: (a) upon demonstrating that a failure to do so will have a material adverse affect</u></p>	<p>network switches when increases in traffic volumes justify the alternate trunking, a requirement critical to maintain a robust and reliable network for CLECs and for Qwest customers as well, by insuring that network capacity may be managed and maintained efficiently. Level 3's language, therefore, could cause inefficiency and added cost to the network. (See Linse Direct at 19-26).</p> <p>In addition, while agreeing that Qwest may request Level 3 to order a direct trunk group to a Qwest end office switch, Level 3 has removed the Qwest language that requires that Level 3 comply with the request, thereby effectively absolving Level 3 of any</p>	<p>vested with that responsibility.</p> <p>Furthermore, contrary to Qwest's assertion, the agreement embodies agreed upon terms that embody trunking network efficiencies. See Section 7.2.2.1.3 requiring the ordering of trunks upon reaching certain traffic thresholds.</p>

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		<p><i>on the operation of its network and (b) upon a finding that doing so will have no material adverse impact on the operation of CLEC, as compared with Interconnection at such Access Tandem Switch.</i></p>	<p>responsibility for network efficiencies. Finally, Level 3 again inserts the disclaimer that it should not have to pay for the use of the Qwest network. This language not only ignores Level 3's obligations under the law, but is also clearly misplaced in a section describing the technical aspects of interconnection.</p>	
<p>Issue No. 1 G Sec. 7.3.1.1.3 and Sec. 7.3.1.1.3.1</p>	<p>Level 3's Statement of the Issue: Does the federal Act permit Level 3 to establish a single point to interconnect its network to Qwest's network, and further require each party to bring its originating traffic to the SPOI without requiring the</p>	<p>7.3.1.1.3 <u>Each party is solely responsible for any and all costs arising from or related to establishing and maintaining the interconnection trunks and facilities it uses to connect to the POI. Thus, neither party shall require the other to bear any additional costs for the establishment and operation of interconnection facilities that connect its network to its side of the POI.</u> 7.3.1.1.3.1 <u>Intercarrier compensation. Intercarrier compensation for traffic</u></p>	<p>The basis for Level 3's language is its unsupportable claim that Qwest is always responsible for all costs on its side of the POI. (See discussion in section 1C and 1D above). This assertion flies in the face of FCC Rule 703(b), which applies only to "telecommunications</p>	<p>Yes. See discussion preceding. Contrary to Qwest's assertion as to Level 3's position, it has always been the case that Level 3 has objected to Qwest's position as it maintains in this case as being contrary to the law and sound public policy encouraging competition.</p>

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	<p>other carrier to pay the originating carrier's costs associated with its network design?</p> <p>Qwest's Statement of the Issue: Whether Qwest is entitled to be compensated by Level 3 for costs incurred by Qwest to provide the use of its network in offering interconnection services Level 3 has ordered?</p>	<p><u>exchanged at the SPOI shall be in accordance with FCC Rule 51.703 and associated FCC rulings. For avoidance of doubt, any traffic that constitutes "telecommunications" and that is not subject to switched access charges, including without limitation so-called "information access" traffic, shall be subject to compensation from the originating carrier to the terminating carrier at the FCC-mandated capped rate (as of the effective date hereof) of \$0.0007 per minute. Any dispute about the appropriate intercarrier compensation applicable to any particular traffic shall be resolved by reference to the FCC's rule and associated orders.</u></p> <p><i>7.3.1.1.3. If the Parties elect to establish LIS two-way trunks, for reciprocal exchange of Exchange Service (EAS/Local) traffic, the cost of the LIS two-way facilities shall be shared among the Parties by reducing the LIS two-way entrance facility (EF) rate element charges as follows:</i></p> <p><i>7.3.1.1.3.1 Entrance Facilities - The provider of the LIS two-way Entrance</i></p>	<p>traffic."</p> <p>Ironically, in prior arbitrations, Level 3 has agreed to the use of a Relative Use Factor ("RUF") to apportion transport costs related to two-way trunking, although Level 3 did not agree with Qwest on the traffic that should be included in the RUF calculation. Level 3's language now completely abandons the RUF concept, instead reiterating its unsupported claim that each party bears all costs on its side of the POI.</p> <p>Qwest's position that ISP traffic be excluded from the RUF calculation is consistent with Rules 701(b), 703(b), and 709(b). Furthermore, in a 2004 arbitration between Qwest and AT&T in Arizona, the</p>	<p>The federal Communications Act permits Level 3 to interconnect its network with Qwest's network at a single point within a LATA. Once that point is established, each party is responsible for routing its originating traffic to that single point of interconnection (SPOI). Level 3's language is necessary to clarify that each party is responsible for their own costs of interconnection and their own network-design costs to route their customers' traffic to the SPOI.</p> <p>With respect to the financial responsibility for transported originated traffic, the FCC adopted 47 CFR §</p>

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		<p><i>Facility (EF) will initially share the cost of the LIS two-way EF by assuming an initial relative use factor (RUF) of fifty percent (50%) for a minimum of one (1) quarter if the Parties have not exchanged LIS traffic previously. The nominal charge to the other Party for the use of the EF, as described in Exhibit A, shall be reduced by this initial relative use factor. Payments by the other Party will be according to this initial relative use factor for a minimum of one (1) quarter. The initial relative use factor will continue for both bill reduction and payments until the Parties agree to a new factor, based upon actual minutes of use data for non-ISP-bound traffic and all traffic that is VNXX Traffic to substantiate a change in that factor. If a CLEC's End User Customers are assigned NPA-NXXs associated with a rate center different from the rate center where the Customer is physically located, traffic that does not originate and terminate within the same Qwest local calling area (as approved by the Commission), regardless of the called and calling NPA-NXXs, involving those</i></p>	<p>Commission ruled that ISP traffic should be excluded from the RUF calculation. Qwest's proposed language is consistent with the Commission's decision in that docket. Furthermore, VNXX traffic, which is interexchange in nature, should likewise be excluded from the RUF; otherwise, Level 3 will be able to employ VNXX and impose all transport costs on Qwest, a situation that is both illegal and which would allow Level 3 to inappropriately shift costs to Qwest that should be borne by Level 3 and its ISP customers. (See Easton Direct at 16-21).</p>	<p>51.703(b). Rule 51.703(b) requires that the financial responsibilities for interconnection for originating traffic should be borne solely by each carrier, and prohibits carriers from shifting costs of transporting traffic to the POI to other carriers. Rule 51.703(b) also unequivocally prohibits LECs from levying charges for traffic originating on their own networks. The FCC has also expressly declined to allow an ILEC to shift the costs of transport and termination to the interconnecting CLEC. See <i>Local Competition Order</i>, 11 F.C.C.R. at 15588-89, p. 176. Thus, Qwest is responsible for the costs</p>

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		<p><i>Customers is referred to as "VNXX traffic". For purposes of determining the RUF, the terminating carrier is responsible for ISP-bound traffic and for VNXX traffic. If either Party demonstrates with non-ISP-bound traffic data that actual minutes of use during the first quarter justify a new relative use factor, that Party will send a notice to the other Party. Once the Parties finalize a new factor, the bill reductions and payments will apply going forward, from the date the original notice was sent. ISP-bound traffic or traffic delivered to Enhanced Service providers is interstate in nature. Qwest has never agreed to exchange VNXX Traffic with CLEC.</i></p>		<p>associated with transporting its originated traffic to the Level 3 POI, and Level 3 is responsible for the costs associated with transporting its originated traffic up to its POI.</p> <p>Qwest's proposed terms must be rejected because it attempts to shift to Level 3 Qwest's costs incurred in routing Qwest's traffic on Qwest's network.</p>
<p>Issue No. 1 H Section 7.3.2.2 and Sec. 7.3.2.2.1</p>	<p>Level 3's Statement of the Issue: Does the federal Act permit Level 3 to establish a single point to interconnect its network to Qwest's network, and further require each party to</p>	<p><u>7.3.2.2 Each party is solely responsible for any and all costs arising from or related to establishing and maintaining the interconnection trunks and facilities it uses to connect to the POI. Thus, neither party shall require the other to bear any additional costs for the establishment and operation of interconnection facilities that connect its network to its side of the POI.</u></p>	<p>This issue relates to financial responsibility for Direct Trunked Transport (DTT), while Issue 1G relates to entrance facilities (EF). In all other respects, this issue is identical to Issue 1G. For the same reasons set forth in Qwest's</p>	<p>Yes. See preceding discussion as regards Qwest's improper attempt to allocate costs to Level 3 contrary to the law and sound public policy.</p> <p>Qwest's proposed terms must be rejected because</p>

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	<p>bring its originating traffic to the SPOI without requiring the other carrier to pay the originating carrier's costs associated with its network design?</p> <p>Qwest's Statement of the Issue: Whether Qwest is entitled to be compensated by Level 3 for costs incurred by Qwest to provide the use of its network in offering interconnection services Level 3 has ordered?</p>	<p>7.3.2.2 <i>If the Parties elect to establish LIS two-way DTT trunks, for reciprocal exchange of Exchange Service (EAS/Local) traffic the cost of the LIS two-way DTT facilities shall be shared among the Parties by reducing the LIS two-way DTT rate element charges as follows:</i></p> <p>7.3.2.2.1 <i>Direct Trunked Transport - The provider of the LIS two-way DTT facility will initially share the cost of the LIS two-way DTT facility by assuming an initial relative use factor of fifty percent (50%) for a minimum of one (1) quarter if the Parties have not exchanged LIS traffic previously. The nominal charge to the other Party for the use of the DTT facility, as described in Exhibit A, shall be reduced by this initial relative use factor. Payments by the other Party will be according to this initial relative use factor for a minimum of one (1) quarter. The initial relative use factor will continue for both bill reduction and payments until the Parties agree to a new factor,-based upon actual minutes of use data for non-ISP-bound traffic to substantiate a change in that factor. If a CLEC's End User Customers</i></p>	<p>position on Issue 1G, the Commission should adopt Qwest's language on Issue 1H and reject Level 3's language.</p>	<p>it attempts to shift to Level 3 Qwest's costs incurred in routing Qwest's traffic on Qwest's network.</p>

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		<p><i>are assigned a NPA-NXXs associated with a rate center other than the rate center where the Customer is physically located, traffic that does not originate and terminate within the same Qwest local calling area (as approved by the Commission), regardless of the called and calling NPA-NXXs, involving those Customers is referred to as "VNXX traffic". For purposes of determining the RUF, the terminating carrier is responsible for ISP-bound traffic and for VNXX traffic. If either Party demonstrates with non-ISP-bound traffic data that actual minutes of use during the first quarter justify a new relative use factor, that Party will send a notice to the other Party. Once the Parties finalize a new factor, the bill reductions and payments will apply going forward, from the date the original notice was sent. ISP-bound traffic is interstate in nature. Qwest has never agreed to exchange VNXX Traffic with CLEC.</i></p>		
Issue No. 1 I Sec. 7.3.3.1	Level 3's Statement of the Issue: Is	7.3.3.1 Neither Party may charge (and neither Party shall have an obligation to	This issue is the same as those addressed above	As discussed in the foregoing Issues, federal

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	<p>each party responsible for the costs incurred in establishing its network on its own side of the point of interconnection?</p> <p>Qwest's Statement of the Issue: Whether Qwest is entitled to be compensated by Level 3 for costs incurred by Qwest to provide the use of its network in offering interconnection services Level 3 has ordered?</p>	<p><u>pay) any installation nonrecurring charges or the like, for any LIS trunk ordered for purposes of exchanging ISP-Bound Traffic, 251(b)(5) Traffic, and VoIP Traffic that either Party delivers at a POI, other than the intercarrier compensation rates.</u></p> <p><i>7.3.3.1 Installation nonrecurring charges may be assessed by the provider for each LIS trunk ordered. Qwest rates are specified in Exhibit A.</i></p>	<p>relating to cost responsibility on each party's side of the POI. The only difference is that this provision relates to non-recurring charges ("NRCs") rather than monthly recurring charges. For the same reasons set forth above, Qwest's language should be adopted.</p>	<p>rules require that each party bear the cost of establishing their network on their side of the point of interconnection. Qwest's proposed terms must be rejected because it would require Level 3 to assume the cost to establish and operate Qwest's network, a responsibility that the Act, FCC rules and case law clearly demonstrates is improper.</p>
<p>Issue No. 1 J Sec. 7.3.3.2</p>	<p>Level 3's Statement of the Issue: Is each party responsible for the costs incurred in</p>	<p><u>7.3.3.2 Neither Party may charge (and neither Party shall have an obligation to pay) any nonrecurring charges for rearrangement assessed for any LIS trunk</u></p>	<p>This issue is the same as those addressed above relating to cost responsibility on each</p>	<p>As discussed in the foregoing Issues, federal rules require that each party bear the cost of</p>

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	<p>establishing its network on its own side of the point of interconnection?</p> <p>Qwest's Statement of the Issue: Whether Qwest is entitled to be compensated by Level 3 for costs incurred by Qwest to provide the use of its network in offering interconnection services Level 3 has ordered?</p>	<p><u>rearrangement ordered for purposes of exchanging ISP-Bound Traffic, 251(b)(5) Traffic, and VoIP Traffic that either Party delivers at a POI, other than the intercarrier compensation rates.</u></p> <p><i>7.3.3.2 Nonrecurring charges for rearrangement may be assessed by the provider for each LIS trunk rearrangement ordered, at one-half (1/2) the rates specified in Exhibit A.</i></p>	<p>party's side of the POI. The only difference is that this provision relates to non-recurring charges ("NRCs") rather than monthly recurring charges. For the same reasons set forth above, Qwest's language should be adopted.</p>	<p>establishing their network on their side of the point of interconnection. Qwest's proposed terms must be rejected because it would require Level 3 to assume the cost to establish Qwest's network.</p>
TIER I	ISSUE 2 - ALL TRAFFIC ON INTERCONNECTION TRUNKS			

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Issue No. 2 A Sec. 7.2.2.9.3.1	<p>Level 3 Statement of the Issue: Is Level 3 obligated to build out separate interconnection trunks for local and non-local traffic?</p> <p>Qwest's Statement of the Issue: Whether Level 3 is entitled to commingle switched access traffic with other types of traffic on local interconnection trunks established under the Agreement?</p>	<p>7.2.2.9.3.1 Where CLEC exchanges Telephone Exchange Service, Exchange Access Service, Telephone Toll Service, and Information Services traffic with Qwest over a single interconnection network, CLEC agrees to pay Qwest, on Qwest's side of the POI, state or federally tariffed rates applicable to the facilities charges for InterLATA and/or InterLATA traffic in proportion to the total amount of traffic exchanged over such interconnection facility. Otherwise each party remains 100% responsible for the costs of its interconnection facilities on its side of the POI. Thus, by way of illustration only, where 20% of such traffic is interLATA (intrastate and interstate) and the remaining 80% is Section 251(b)(5) Traffic, CLEC would pay Qwest an amount equal to 20% of the applicable tariffed transport rate that would apply to a tariffed facility used solely for the exchange of such access traffic for such traffic exchanged on Qwest's side of the POI over a single interconnection trunk.</p> <p>Except as expressly provided in Section</p>	<p>There are two general issues under Issue No. 2: (1) compensation for LIS trunking on the Qwest side of the POI and (2) the types of traffic may be combined on LIS trunks. Qwest has discussed the first issue in connection with Issue 1 (and its subissues) and will not repeat them here.</p> <p>On the second issue, there are two other issues. The first is legal and the second is technical and practical.</p> <p>From a legal perspective, Qwest is willing to allow all traffic types, with the exception of switched access traffic, to be carried over LIS trunks; however, consistent with a practice that has governed for over two decades, switched access traffic must be</p>	<p>Qwest is obligated pursuant to Section 201 and Section 251 (c)(2)(B) to provide Level 3 with interconnection "at any technically feasible point within its network". This section gives the requesting carrier, Level 3, the right to choose where and how the interconnection will take place. The ILEC, in turn, must provide the facilities and equipment for interconnection at that point. (Section 251(c)(2) Further, under the congressional mandates contained in Section 251(c)(2)(C), Qwest is obligated to provide interconnection to Level 3 that is at least equal in quality to that provided Qwest's affiliates or any other</p>

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		<p><u>7.3.1.1.3 Each party shall bear all costs of interconnection on its side of the network in accordance with 47 C.F.R. § 51.703. Accordingly, unless otherwise expressly authorized according to Section 7.3.1.1.3, neither Party may charge the other (and neither Party shall have an obligation to pay) any recurring and/or nonrecurring fees, charges or the like (including, without limitation, any transport charges), associated with the exchange of any telecommunications traffic including but not limited to Section 251(b)(5) Traffic on its side of the POI.</u></p> <p><u>Each party is solely responsible for any and all costs arising from or related to establishing and maintaining the interconnection trunks and facilities it uses to connect to the POI. Thus, neither party shall require the other to bear any additional costs for the establishment and operation of interconnection facilities that connect its network to its side of the POI. If traffic is combined, Section 7.3.9 of this Agreement applies.</u></p> <p><u>7.2.2.9.3.1 Exchange Service (EAS/Local),</u></p>	<p>carried over Feature Group D (FGD) trunks. Thus, as an alternative to Level 3's approach, Qwest has agreed to allow all traffic types terminating to Qwest to be combined over FGD trunks.</p> <p>Qwest has no legal obligation to permit commingling of switched access traffic with other types of traffic on LIS trunks. Qwest is required to provide interconnection for the exchange of switched access traffic in the same manner that it provided interconnection for such traffic prior to passage of the Act.</p> <p>Nothing in the Act or the FCC's regulations give Level 3 the right to mix switched access traffic with local</p>	<p>carrier. Qwest has been allowed to combine for itself and other CLECs a mix of local and non-local traffic over the same trunk groups. Under Section 251 (c)(2)(C), it must also do so for Level 3.</p> <p>Contrary to Qwest's assertion, the issue is not whether traditionally certain types of traffic have been allocated to specific facilities, but rather whether it is technically feasible to exchange traffic as Level 3 proposes and whether to not allow Level 3 to do so is discriminatory. Level 3 has obligated itself to pay for such traffic as is appropriate, and it is only Qwest's demand that its legacy</p>

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		<p><i>ISP-Bound Traffic, IntraLATA LEC Toll, VoIP traffic and Jointly Provided Switched Access (InterLATA and IntraLATA Toll involving a third party IXC) may be combined in a single LIS trunk group or transmitted on separate LIS trunk groups.</i></p> <p>7.2.2.9.3.1.1. <i>If CLEC utilizes trunking arrangements as described in Section 7.2.2.9.3.1, Exchange Service (EAS/Local) traffic shall not be combined with Switched Access, not including Jointly Provided Switched Access, on the same trunk group, i.e. Exchange Service (EAS/Local) traffic may not be combined with Switched Access Feature Group D traffic to a Qwest Access Tandem Switch and/or End Office Switch.</i></p>	<p>traffic over LIS trunks between its network and Qwest's established pursuant to Section 251(c)(2).</p> <p>Level 3's proposal would only allow Qwest to assess a per minute of use charge on switched access traffic.</p> <p>Qwest would still be denied the non-recurring charges that are a part of FGD charges. These are charges that are contained in Qwest's access tariffs and are charges that all IXCs are required to pay.</p> <p>In addition to legal issues, Level 3's proposal creates serious technical and practical issues.</p> <p>The Level 3 proposal, which</p>	<p>systems be able to bill such traffic as opposed to adopting Level 3's proposal for billing that prevents Level 3 from realizing the network efficiencies it is entitled to under the law.</p> <p>Further, Qwest's seemingly reasonable offer of utilizing FGD trunks for this purpose completely misses the basis of Level 3's proposal, namely forgoing the need to establish unnecessary, redundant facilities merely for the unsupported billing enhancement convenience of Qwest.</p>

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			<p>relies on factors, not recordings of actual traffic information, would not allow Qwest to use its existing mechanized billing processes. Thus, Level 3's proposal would require investment and significant reworking of Qwest systems and processes, forcing Qwest to expend significant resources to meet the special needs of one carrier.</p> <p>Level 3's use of billing factors would not allow Qwest to provide the industry standard records to the terminating LEC, wireless carriers, or CLEC carriers, thus creating serious billing issues. Imposition of Level 3's proposal would impact all ILECs and CLECs that rely on Qwest to provide them with a jointly provided</p>	

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			<p>switched access record. Thus, Level 3's proposal would require other companies to change their systems and processes for billing their portion of switched access to the IXC. By offering Level 3 the ability to combine traffic on FGD (section 7.2.2.9.3.2), Qwest has offered Level 3 an approach which will allow the network efficiencies that Level 3 is seeking, while at the same time allowing for mechanized billing of the appropriate tariffed rates and the ability to produce the necessary jointly provided switched access records. There is no reason to grapple with the difficulties inherent in Level 3's proposal when a workable solution to combining all traffic on a</p>	

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<p>Issue No. 2 B Sec. <u>7.2.2.9.3.2</u> and <u>7.2.2.9.3.2.1</u></p>	<p>Level 3 Statement of the Issue: Is Level 3 obligated to build out separate interconnection trunks for local and non-local traffic? Qwest's Statement of the Issue: Whether Level 3 is entitled to commingle switched access traffic with other types of traffic on local</p>	<p><u>7.2.2.9.3.2 CLEC may combine Exchange Service (EAS/Local) traffic, ISP-Bound Traffic, Exchange Access (IntraLATA Toll carried solely by Local Exchange Carriers), VoIP Traffic and Switched Access Feature Group D traffic including Jointly Provided Switched Access traffic, on the same Feature Group D trunk group or over the same interconnection trunk groups as provided in Section 7.3.9.</u> <i>7.2.2.9.3.2 CLEC may combine originating Exchange Service (EAS/Local) traffic, ISP-Bound Traffic, IntraLATA LEC</i></p>	<p>single trunk group already exists. There is simply no valid reason to give Level 3 special treatment that other carriers are neither entitled to nor have demanded. (See Easton Direct at 25-33; Linse Direct at 26-34).</p>	
			<p>For the same reasons set forth above under issue 2A, Qwest's language should be adopted and Level 3's should be rejected.</p>	<p>Combining all traffic on a single trunk facility is consistent with the Act and its overriding goal of promoting competition, advanced services and network efficiency. As previously outlined, Qwest is obligated pursuant to Section 251 (c)(2)(B) to provide Level 3 with interconnection "at any technically feasible point within its network". This section</p>

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	interconnection trunks established under the Agreement?	<p><i>Toll, VoIP Traffic and Switched Access Feature Group D traffic including Jointly Provided Switched Access traffic, on the same Feature Group D trunk group.</i></p> <p><i>7.2.2.9.3.2.1 CLEC shall provide to Qwest, each quarter, Percent Local Use (PLU) factor(s) that can be verified with individual call detail records or the Parties may use call records or mechanized jurisdictionalization using Calling Party Number (CPN) information in lieu of PLU, if CPN is available. Where CLEC utilizes an affiliate's Interexchange Carrier (IXC) Feature Group D trunks to deliver Exchange Service (EAS/Local) traffic with interexchange Switched Access traffic to Qwest, Qwest shall establish trunk group(s) to deliver Exchange Service (EAS/Local), Transit, and IntraLATA LEC Toll, to CLEC. Qwest will use or establish a POI for such trunk group in accordance with Section 7.1.</i></p>		<p>gives the requesting carrier, Level 3, the right to choose where and how the interconnection will take place. The ILEC, in turn, must provide the facilities and equipment for interconnection at that point. Further, under the congressional mandates contained in Section 251(c)(2)(C), Qwest is obligated to provide interconnection to Level 3 that is at least equal in quality to that provided Qwest's affiliates or any other carrier. Qwest has been allowed to combine for itself and other CLECs a mix of local and non-local traffic over the same trunk groups. Under Section 251(c)(2)(C), it must also do so for Level 3.</p>

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Tier I Issue 3 A	COMPENSATION FOR ISP-BOUND TRAFFIC			Level 3 is entitled to use the Interconnection trunks and facilities under this Agreement to exchange traffic with Qwest. Qwest's proposed terms would impermissibly require Level 3 to establish a separate network to exchange traffic that terminates to Qwest.
Issue No. 3 7.3.6.3	Level 3 Statement of the Issue: Is Level 3 obligated to build out separate interconnection trunks for local and non-local	<u>7.3.6.3 If CLEC designates different rating and routing points such that traffic that originates in one rate center terminates to a routing point designated by CLEC in a rate center that is not local to the calling party even though the called NXX is local to the</u>	Under the <i>ISP Remand Order</i> and until addressed more definitively by the FCC, compensation is due on ISP calls that originate and terminate to locations	Qwest's assertion that ISP calls must originate and terminate to locations within a local calling area in order for a

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	<p>traffic?</p> <p>Qwest's Statement of the Issue: Whether Qwest is required to pay intercarrier compensation on ISP traffic that does not originate and terminate at physical locations within the same local calling area ("LCA") established by the Commission?</p>	<p><u>calling party, such traffic ("Virtual Foreign Exchange" traffic) shall be rated in reference to the rate centers associated with the NXX prefixes of the calling and called parties' numbers, and treated as 251(b)(5) traffic for purposes of compensation.</u></p> <p>7.3.6.3 Qwest will not pay reciprocal compensation on VNXX traffic.</p>	<p>within a local calling area (LCA) at \$.0007 per MOU. However, Level 3's contention that the <i>ISP Remand Order</i> requires terminating compensation on VNXX ISP traffic is contrary to the order itself and to other authorities. Nothing in the <i>ISP Remand Order</i> or <i>Core Order</i> requires that the Commission adopt ICA language that allows intercarrier compensation for VNXX ISP traffic.</p> <p>Level 3's cost argument is a red herring and is completely irrelevant to the issues. The question before the Commission is not the cost of termination, but whether a CLEC, by serving ISPs, may gather traffic from multiple LCAs</p>	<p>CLEC to receive reciprocal compensation has been repudiated by the FCC and Qwest itself. Qwest's position fails to acknowledge the fact that ISP bound calls are unsusceptible to the legacy network determination of where termination occurs.</p> <p>In adopting the compensation scheme contained within the ISP Remand Order, the FCC embraced in the outer years of the regime the rate of \$.0007 as reflective of a discount from the local reciprocal compensation rate. This discount represents an acknowledgement that the ILEC might incur some, if any, costs in</p>

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			<p>at no cost to itself and then be able to charge Qwest for terminating <i>all</i> of that traffic, whether it is local or not. Requiring compensation on non-local ISP traffic leads to the uneconomic arbitrage and windfall revenues articulated by the FCC in the <i>ISP Remand Order</i>.</p> <p>In seeking to receive compensation on VNXX services, Level 3 is attempting to redefine existing tariffed services and Commission-established local boundaries and categorize them in a unique way in an attempt to collect compensation and avoid access charges. VNXX numbers, and the facilities that would be used to</p>	<p>transporting ISP bound traffic to a CLEC, at the same time acknowledging the considerable costs the CLEC incurred to deliver that traffic to an ISP. In the <i>Core Order</i>, the FCC, upon reviewing the circumstances that had initially led to limiting the receipt of the ISP bound compensation to markets in which the CLEC already conducted business with a cap on the amount of traffic subject to such compensation, and determined that the circumstances warranting the full set of limitations, in the face of the removal of arbitrage concerns, were</p>

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			<p>connect to locations where such calls would be terminated, are interexchange in nature and are therefore not subject to terminating compensation. The Commission should adopt Qwest's language and thus prevent Level 3's assignment of VNXX telephone numbers from resulting in terminating compensation. (See Brotherson Direct at 51-57)</p>	<p>no longer present. Fundamental to this view of the change in circumstances is the understanding that the very nature of the traffic had changed and that there no longer existed a "typical ISP-bound call" terminated in a local calling area, if in fact there ever was. Qwest in its testimony acknowledged that VNXX routing for ISP calls was in fact the typical manner such calls were routed today. Because Qwest has opted into the FCC's compensation regime adopted in the <i>ISP Remand Order</i> for Section 251(b)(5) traffic, Qwest is required to compensate</p>

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				<p>Level 3 at the rate of \$0.0007 per minute of use for all ISP-Bound Traffic, regardless of the geographic location of either the originating caller or terminating party. The <i>ISP Remand Order</i> makes clear that the federal compensation regime of \$0.0007 applies to <i>all</i> ISP-bound traffic: "We conclude that this definition of 'information access' was meant to include <i>all access traffic</i> that was routed by a LEC 'to or from' providers of information services, of which ISPs are a subset." However, Qwest's contract proposal seeks to recharacterize certain subsets of ISP-bound traffic, and then in Section 7.3.6.3, provide</p>

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Issue Number/ ICA Section	Issue Description	Disputed Terms	Qwest Position	Level 3 Position
<p>Issue No. 3 B Sec. 4 - Definitions</p>	<p>Level 3 Statement of the Issue: Whether Qwest may use retail “local calling area definitions” as grounds to reduce compensation that the FCC has ordered apply to Information and/or Information Access Services? Qwest’s Statement of the Issue: Whether Qwest is required to pay intercarrier compensation on ISP traffic that does not originate and</p>	<p>“VNXX Traffic” <u>Shall include the following:</u> “ISP-bound VNXX traffic” is telecommunications over which the FCC has exercised exclusive jurisdiction under Section 201 of the Act and to which traffic a compensation rate of \$0.0007 / MOU applies. ISP-bound VNXX traffic uses geographically independent telephone numbers (“GITN”), and thus the telephone numbers associated with the calling and called parties may or may not bear NPA-NXX codes associated with the physical location of either party. This traffic typically originates on the PSTN and terminates to the Internet via an Internet Service Provider (“ISP”).</p>	<p>Qwest and Level 3 agree that a VNXX call originates in one LCA and terminates in another LCA. Although this section’s purpose is only to define VNXX traffic, Level 3 inappropriately adds “compensation” language into the definition on the assumption that reciprocal compensation applies to VNXX traffic. Level 3’s language is improper for several reasons. First, because this section is for defining <i>what</i></p>	<p>that no compensation is due for that subset of traffic (VNXX traffic.) Qwest’s terms are not permissible under the <i>ISP Remand Order</i>. Qwest’s definition of VNXX must be rejected as it is inconsistent with federal law. The FCC’s has consistently rejected any end to end analysis in respect to ISP-bound and IP-enabled traffic, including the <i>Vonage Order</i> as well as the <i>ISP Remand Order</i>. Nowhere does the FCC rely upon the physical location of the calling or called party to define VoIP or ISP enabled traffic – both as a matter of legal analysis or as a matter of technical reality in</p>

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	<p>terminate at physical locations within the same local calling area ("LCA") established by the Commission?</p>	<p><u>"VoIP VNXX traffic" is telecommunications over which the FCC has exercised exclusive jurisdiction under Section 201 of the Act and to which traffic a compensation rate of \$0.0007 / MOU applies. VoIP traffic includes calls that originate in Internet Protocol (IP) terminating to legacy circuit-switched networks in TDM (thus IP-TDM) as well as traffic originating in TDM and terminating to IP (thus TDM-IP). VoIP VNXX traffic uses geographically independent telephone numbers ("GITN"), and thus the telephone numbers associated with the calling and called parties may or may not bear NPA-NXX codes associated with the physical location of either party. Because VoIP VNXX traffic originates on the Internet, the physical location of the calling and called parties can change at any time. For example, VoIP VNXX traffic presents billing situations where the (i) caller and called parties are physically located in the same ILEC retail (for purposes of offering circuit switched "local telephone service") local calling area and the NPA-NXX codes associated with each party are associated</u></p>	<p>VNXX traffic is and not its rates, and second, and of critical importance, Level 3's proposed definition of VNXX would convert toll calls to local calls, and change the Commission's defined LCAs.</p> <p>Qwest's definition of VNXX is consistent with accepted definitions of that term and, although the compensation issues are dealt with elsewhere, Qwest makes no attempt in its definition of VNXX to resolve that issue.</p> <p>Level 3's definition is unnecessarily complex and attempts to create distinctions where none exist in order to avoid the existing intercarrier compensation requirements</p>	<p>respect to how a packet network that transports ISP bound and IP-enabled traffic functions. Therefore, the Commission must reject Qwest's proposed definition as inconsistent with the law.</p>

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		<p>with different ILEC LCAs; (ii) caller and called parties are physically located in the same ILEC retail (for purposes of offering circuit switched “local telephone service”) local calling area and the NPA-NXX codes associated with each party are associated with the same ILEC LCAs; (iii) caller and called parties are physically located in the different ILEC retail (for purposes of offering circuit switched “local telephone service”) local calling area and the NPA-NXX codes associated with each party are associated with same LEC LCAs; and (iv) caller and called parties are physically located in the different ILEC retail (for purposes of offering circuit switched “local telephone service”) local calling area and the NPA-NXX codes associated with each party are associated with each party are associated with different ILEC LCAs. Examples of VoIP VNXX traffic include the Qwest “One Flex” service and Level 3’s (3)VoIP Enhanced Local service.</p> <p>Circuit Switched VNXX traffic is traditional “telecommunications services” associated with legacy circuit switched telecommunications providers, most of</p>	<p>In effect, Level 3 is attempting to avoid costs that other carriers pay and replace them with revenues. All three proposed categories of VNXX in Level 3’s proposed definition are based on the termination of a call being physically located in a different LCA. The labeled distinctions are irrelevant to the definition of VNXX and only confuse the language and the underlying issues.</p> <p>Qwest’s proposed definition of VNXX is consistent with Arizona statutes, rules, tariffs and with the Commission’s recent decision in the AT&T Arbitration docket. (See Brotherson Direct at</p>	

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		<p><u>which built their networks under monopoly regulatory structures that evolved around the turn of the last century. Under this scenario, costs are apportioned according to the belief that bandwidth is scarce and transport expensive. The ILEC offers to a customer the ability to obtain a ‘local’ service (as defined in the ILEC’s retail tariff) by paying for dedicated transport between the physical location of the customer and the physical location of the NPA-NXX. Thus, this term entirely describes a service offered by ILECs, but which cannot be offered by IP-based competitors as such networks do not dedicate facilities on an end-to-end basis.</u></p>	41-51).	
		<p><i>“VNXX traffic” is all traffic originated by the Qwest End User Customer that is not terminated to CLEC’s End User Customer physically located within the same Qwest Local Calling Area (as approved by the state Commission) as the originating caller, regardless of the NPA-NXX dialed and, specifically, regardless of whether CLEC’s End User Customer is assigned an NPA-</i></p>		

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Issue No. 3 C Section 7.3.6.1	<p>Level 3 Statement of the Issue: Once Qwest opts into the ISP Remand compensation regime for the exchange of traffic, may Qwest lower that rate based on a state commission approved rate for reciprocal compensation that applies to non-information services?</p> <p>Qwest's Statement of the Issue: Whether Qwest is required to pay intercarrier compensation on ISP traffic that does not originate and</p>	<p><i>NXX associated with a rate center in which the Qwest End User Customer is physically located.</i></p> <p>7.3.6.1 <i>Subject to the terms of this Section, intercarrier Intercarrier compensation for ISP-bound traffic, Section 251(b)(5) traffic, and VoIP traffic exchanged between Qwest and CLEC (where the end users are physically located within the same Local Calling Area) will be billed and paid as follows, without limitation as to the number of MOU ("minutes of use") or whether the MOU are generated in "new markets" as that term has been defined by the FCC in the ISP Remand Order at a rate of \$.0007 per MOU or the state ordered rate, whichever is lower.</i></p>	<p>Qwest's objects to Level 3's insertion of additional types of traffic into the paragraph 7.3.6.1, for which it wants to receive reciprocal compensation at the rate of \$.0007. The two additional types of traffic are the imprecise reference to "section 251(b)(5) traffic," as well as "VoIP traffic."</p> <p>By proposing this language, Level 3 is attempting, in effect, to obtain a decision from the Arizona Commission that access rates do not apply to any Level 3 traffic in Arizona. Level 3 does this by proposing language that would apply compensation</p>	<p>Qwest agrees that it will compensate Level 3 at the rate of \$.0007 per minute of use for ISP-bound traffic. However, Qwest's proposal would reduce that rate for ISP-bound traffic to a lower rate established by the state public service commission.</p> <p>Qwest's proposal may not be adopted. The FCC has established the price floor for the compensation of ISP-bound traffic, and the state commission's historical rates for the exchange of circuit switched traffic do not apply to ISP-bound</p>

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	<p>terminate at physical locations within the same local calling area ("LCA") established by the Commission?</p>		<p>at \$.0007 peer MOU on a category it identifies as "251(b)(5) traffic." Through a variety of cross-references and other definitions, Level 3's definition of "251(b)(5)" traffic includes not only ISP-bound traffic and VoIP, but toll traffic as well. Level 3's complicated definitions are not just minor; rather, they represent a dramatic change in intercarrier compensation from the mechanisms that govern the relationships between carriers. Level 3's language should be rejected. (See Brotherson Direct at 57-60).</p>	<p>traffic. The FCC's ISP Remand Order has preempted state commission rates for ISP-bound traffic. Qwest's assertion that the proposed definitions by Level 3 complicate the issues at hand are without merit – and actually contrary to their true effect. By clearly defining the statutory basis for the traffic in question, Level 3's definition will avoid future disputes between the parties. For VoIP traffic see Section 7.3.6.</p>

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TIER I	<p>IP ENABLED COMPENSATION</p> <p>Level 3 Statement of Issue: Once Qwest opts into the ISP Remand compensation regime for the exchange of traffic, may Qwest lower that rate based on a state commission approved rate for reciprocal compensation that applies to non-information services?</p> <p>Qwest's Statement of the Issue: Whether Qwest and Level 3 are required to pay reciprocal compensation on VoIP traffic that does not originate and terminate at physical</p>	<p><u>7.3.4 Compensation for ISP-Bound and IP-TDM and TDM-IP VoIP Traffic</u></p> <p><u>7.3.4.1 Subject to the terms of this Section, intercarrier compensation for Section 251(b)(5) Traffic where originating and terminating NPA-NXX codes correspond to rate centers located within Qwest defined local calling areas (including ISP-bound and VoIP Traffic) exchanged between Qwest and CLEC will be billed as follows, without limitation as to the number of MOU ("minutes of use") or whether the MOU are generated in "new markets" as that term has been defined by the FCC: \$.0007 per MOU.</u></p> <p><u>7.3.4.2 ISP-Bound and any IP-TDM or TDM-IP VoIP Traffic will be compensated at the FCC mandated rate of \$.0007 per MOU, on a per LATA basis, so long as such traffic is exchanged between the Parties at a single POI per LATA.</u></p>	<p>The Qwest proposed rate of \$.00097 was established by the Commission for voice traffic. The FCC did nothing to take away the state commissions' right to set the voice rate for reciprocal compensation. Level 3 takes the position that a different rate, \$.0007.</p> <p>In addition, Level 3 again tries to insert 251(b)(5) language, which, based on the discussion under Issue 3C, includes toll. Level 3 also attempts to include any VNXX calls by tying the traffic to the NPA-NXX, and not to the LCAs where the customers reside.</p>	<p>Qwest agrees that it will compensate Level 3 at the rate of \$.0007 per minute of use for VoIP. However, Qwest's proposal would reduce that rate for VoIP traffic to a lower rate established by the state public service commission.</p> <p>Qwest again attempts to assert the red herring that there exists some aspect of locality and a determinate aspect for the receipt of compensation for ISP-bound and VoIP traffic. If such traffic were in fact local in nature – and thus had the locality characteristic that Qwest</p>

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	<p>locations within the same LCA.</p>	<p>7.3.4.1 Intercarrier compensation for Exchange Service (EAS/Local) and VoIP traffic exchanged between CLEC and Qwest (where the end users are physically located within the same Local Calling Area) will be billed at \$.0007 per MOU or the state ordered rate, whichever is lower.</p> <p>7.3.4.2 The Parties will not pay reciprocal compensation on traffic, including traffic that a Party may claim is ISP-Bound Traffic, when the traffic does not originate and terminate within the same Qwest local calling area (as approved by the state Commission), regardless of the calling and called NPA-NXXs and, specifically regardless of whether an End User Customer is assigned an NPA-NXX associated with a rate center different from the rate center where the customer is physically located (a/k/a "VNXX Traffic"). Qwest's agreement to the terms in this paragraph is without waiver or prejudice to Qwest's position that it has never agreed to exchange VNXX Traffic with CLEC.</p>	<p>Level 3 seeks to expand the definition of 251(b)(5) traffic to include calls from outside the LCA if the terminating party had an assigned NXX associated with the local exchange of the calling party. Level 3 is attempting through its language in 7.3.4.1 to do the same thing for voice and VoIP calls.</p> <p>Qwest's language makes clear that VNXX traffic, including voice and VoIP VNXX traffic, is not local and is not subject to reciprocal compensation rules for local traffic. Level 3's attempt to change the FCC's orders and redefine 251(b)(5) to include toll are also addressed in Issues 10 and 19. (See Brotherson Direct</p>	<p>argues, then such traffic would not have the technical and interstate characteristics that the FCC has consistently found - and upon which it has asserted its jurisdiction.</p> <p>Qwest's proposal may not be adopted. The FCC has established the price floor for the compensation of ISP-bound traffic, and the state commission's historical rates for the exchange of circuit switched traffic do not apply to ISP-bound traffic. The FCC's ISP Remand Order has preempted state commission rates for ISP-bound traffic.</p>

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			at 60-62)	

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Issue No. 5	<p>Level 3 Statement of Issue: Whether the Agreement should incorporate by reference, interconnection terms and conditions that conflict with the specific terms of the Interconnection Agreement at issue in this proceeding.</p> <p>Qwest Statement of the Issue: Whether state-specific language approved by the Commission should be used in the Agreement instead of Qwest's template language?</p>	<p>Each reference by Qwest in the Agreement to Qwest's Statement of Generally Available terms. See for example, Qwest's attempt to adopt terms defined in its SGAT in the definitions section, and Sections 5.8.1, 5.8.2, 5.12.1, 5.12.2, 5.13, 5.15.1, 5.16.9.1.1, 5.16.10, 5.18.3, 5.18.9, 5.23.1, 5.27.1, 5.30.1., 6.2.2.5, 6.2.2.6, 6.2.2.7, 6.2.2.9.2, 6.2.3.1a, 6.2.3.1c, 6.2.3.1d, 6.2.3.2a, 6.2.3.2d, 6.2.14, 6.4.1, 7.1.2.1, etc.</p>	<p>Qwest does not believe this is an open issue.</p> <p>Level 3 has misinterpreted the cross-references that Qwest included in its template interconnection agreement which was used as a basis for negotiations. Those references signified situations where a specific commission has approved state-specific language that is different than the generic language used in the fourteen state template. Qwest's intent in referencing the state SGATs in the template was to signify that the state-specific language was to be substituted for the template language in those cases. The interconnection agreement that was submitted with Qwest's</p>	<p>Qwest attempts to incorporate by reference, without consent by Level 3, varying and undefined terms into this Interconnection Agreement by making reference to the SGAT on file with the Commission. While Qwest may make interconnection available to Level 3 through the terms and conditions of its SGAT, Qwest may not modify the terms of this Agreement with unknown and undefined references to the agreement.</p> <p>The parties have already agreed in Section 5.2.2.1 that Level 3 may obtain</p>

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			<p>response in this docket contains the state specific language that Qwest proposes and no longer contains cross-references to the SGAT. Thus, Qwest believes it has resolved this issue.</p>	<p>Interconnection services under the terms and conditions of a then-existing SGAT or agreement to become effective at the conclusion of the term or prior to the conclusion of the term if CLEC so chooses. Qwest may not pick and choose contradictory terms and conditions from the SGAT to modify its obligations under the Agreement.</p>
TIER II ISSUES	Issues that require a decision to be consistent with the conclusions reached by the Commission in Level 3's Tier I issues.			

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Issue No. 7 Sec. 4 Definitions	<p>Level 3 Statement of Issue: Whether the Agreement should provide that End User Customers are those customers that are on the public switched telecommunications network, and that end users only exchange calls to or from the public switched telecommunications network?</p> <p>Qwest's Statement of the Issue: Should the Parties use the Commission approved definition of "Basic Exchange Telecommunications Service"?</p>	<p><u>Telephone Exchange Service is as defined in the Act.</u></p> <p><i>"Basic Exchange Telecommunications Service" means, unless otherwise defined in Commission rules and then it shall have the meaning set forth therein, a service offered to End User Customers which provides the End User Customer with a telephonic connection to, and a unique local telephone number address on, the public switched telecommunications network, and which enables such End User Customer to generally place calls to, or receive calls from, other stations on the public switched telecommunications network. Basic Exchange Telecommunications Services. As used solely in the context of this Agreement and unless otherwise agreed, Basic Exchange Telecommunications Service includes access to ancillary services such as 911, directory assistance and operator services.</i></p>	<p>Qwest's proposed definition has been included in its SGATs throughout its fourteen state region.</p>	<p>Level 3 provides IP Enabled services whereby Level 3's customers complete Voice over IP telecommunications. Qwest's proposed definition would describe the services subject to this agreement as only those circumstances where an end user that obtains service from the public switched telecommunications network, place calls to, or receive calls from, other stations on the public switched telecommunications network. This definition is unnecessary and limiting, and seeks to</p>

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Issue No. 8 Sec. 4 Definitions	<p>Level 3 Statement of Issue: Should the Parties' be permitted to agree on the types of call record information the Parties' be permitted to agree on the types of call record information.</p> <p>Qwest's Statement of the Issue: What is the appropriate definition for "call record"?</p>	<p>"Call Record" may include identification of the following: charge number, Calling Party Number ("CPN"), Other Carrier Number ("OCN"), or Automatic Number Identifier ("ANI"), Originating Line Indicator ("OLI"), as well as originating telephone number, terminating telephone number, billing telephone number (if different from originating or terminating number), time and date of call, duration of call, long distance carrier (if applicable), and other data necessary to properly rate and bill the call. In addition to facilities-based intermodal carriers offer new services including VoIP, the Parties agree to explore means of identifying VoIP traffic for billing purposes. Such identification includes insertion of digits into the OLI field, as has been operationalized by Level 3 with ILECs nationwide.</p> <p>"Call Record" means a record that provides</p>	<p>A call record must include certain fundamental information to create a record for billing purposes. Level 3's definition would redefine longstanding industry practice. For example, Level 3's proposed language would require call information that is not necessary for the creation of a call record, yet omits information that should be required for the creation of a call record.</p> <p>Neither the "Charge Number" nor the Originating Line Information are required by current industry standards. Local signaling does not require either Charge</p>	<p>exclude the types of IP Enabled traffic that is exchanged with Level 3.</p> <p>Qwest's proposed definition of "Call Record" locks in place the types of information that the Parties will exchange to track call, monitor compensation, and establish billing records. Under Qwest's proposal, "Call Record" shall include only the following: charge number, Calling Party Number ("CPN"), Other Carrier Number ("OCN"), or Automatic Number Identifier ("ANI"), Originating Line Indicator ("OLI"). Level proposes that the Parties have the flexibility and option to</p>

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		<p><i>key data about individual telephone calls. It includes originating telephone number, terminating telephone number, billing telephone number (if different from originating or terminating number) time and date of call, duration of call, long distance carrier (if applicable), and other data necessary to properly rate and bill the call.</i></p>	<p>Number or OLI. As a result, valid call records would not be created under Level 3's definition for local calls. In addition, because IXCs typically strip Charge Number and OLI when terminating a call through Qwest to other local service providers via Jointly Provided Switched Access, terminating access records would also become invalid call records under Level 3's definition.</p> <p>Level 3's language would obligate both parties to provide specific call information by incorporating the word "shall" in its proposed definition of a call record. (See Linse Direct at 35-42)</p>	<p>exchange additional information that may be relevant and useful as IP traffic exchange and the underlying technology matures. Qwest's limitation would curtail the Parties' ability to address the change in billing protocols necessary as the network evolves, and in fact could result in IP providers from even exchanging the traffic.</p> <p>In light of the FCC's <i>Vonage Order</i>, which addresses and defines VoIP services, Qwest's proposed term cannot be sustained. Qwest would have the Commission adopt a set of billing and record standards that cannot apply to IP-PSTN</p>

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Issue No. 10 Sec. 4 Definitions	<p>Level 3 Statement of Issue: Should the definition of "Interconnection" include terms that would exclude the Parties from exchanging VoIP traffic, and certain ISP-bound traffic?</p> <p>Qwest's Statement of the Issue: Should the parties use a definition of "Interconnection" that most closely conforms to the</p>	<p><u>"Interconnection" is the linking of two networks for the mutual exchange of Telecommunications Including Telephone Exchange Service And Exchange Access traffic. Telecommunications includes, but is not limited to, Section 251(b)(5) Traffic, Telephone Exchange Service, Exchange Access Service, Information Service (including, but not limited to, ISP-Bound traffic and VoIP traffic), and Telephone Toll Service (IntraLATA and InterLATA Toll) traffic.. Interconnection also includes the exchange of Jointly Provided Switched Access (InterLATA and IntraLATA) traffic, which traffic is not Section 251(b)(5) traffic.</u></p>	<p>Level 3 mischaracterizes this issue as a Qwest attempt to exclude traffic from being exchanged.</p> <p>Instead, this is simply another version of Level 3's inappropriate effort to reclassify all traffic to its benefit. Level 3 purports to be offering a definition of "interconnection," but it is really attempting to insert into the agreement its incredibly broad definition of section 251(b)(5) traffic, which includes toll traffic.</p> <p>Level 3 is seeking to expand</p>	<p>traffic. Level 3's terms merely allow the Parties the ability to be flexible in the exchange of call records and formats that will allow them to adapt to the changing environment.</p> <p>Qwest's proposed definition of "Interconnection" describes the types of traffic that may be exchanged by the Parties. However, Qwest's definition excludes VoIP traffic. Qwest's proposed definition should be rejected because it is a back-door attempt to regulate the types of traffic that may be exchanged between the Parties. Level 3's definition of</p>

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	Commission-approved definition?	<i>"Interconnection" is as described in the Act and refers to the connection between networks for the purpose of transmission and routing of telephone Exchange Service traffic, IntraLATA Toll carried solely by local exchange carriers, ISP-Bound traffic and Jointly Provided Switched Access traffic.</i>	the definition of 251(b)(5) traffic to include, among other things, intraLATA and interLATA toll calls, types of service that the FCC has unequivocally excluded from section 251(b)(5). Level 3 is attempting, through a definitional sleight of hand, to fundamentally change the intercarrier compensation mechanisms that have governed carrier-to-carrier relationships for years. The Commission should reject Level 3's definition of "interconnection." (See Brotherson Direct at 66-67)	Interconnection identifies all forms of traffic that may be exchanged between the Parties, and most closely matches the terms of the Act
Issue No. 11 Sec. 4 Definitions	Level 3 Statement of Issue: Should the	"Interexchange Carrier" or "IXC" means a Carrier that provides Telephone Toll Service InterLATA or IntraLATA Toll services.	Qwest's proposed definition of "Interexchange Carrier" is the current, standard	Level 3's contract defines an Interexchange Carrier as a carrier that provides Telephone Toll

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	<p>definition of “Interexchange Carrier” be defined by relying on a type of traffic that is defined by the federal Communications Act?</p> <p>Qwest’s Statement of the Issue: Should the parties use a definition of “Interexchange Carrier” that is identical to the Commission-approved definition?</p>		<p>language included in interconnection agreements with CLECs and has been approved by every Commission in Qwest’s region. An interexchange carrier is an access customer that typically purchases Feature Group D access trunks from Qwest to originate and terminate “interLATA and intraLATA” toll calls. The terms “InterLATA and IntraLATA” are widely used and understood within the telecommunications industry. “InterLATA service” is a defined term in 47 U.S.C. § 153(21). State commissions also reference intraLATA and interLATA services and refer to “toll” services ordered by an IXC.</p> <p>Level 3 takes the position</p>	<p>Service, a type of service actually defined by the federal Communications Act. Qwest’s proposed definition relies upon definitions that are not found in the federal Act and instead reflect Qwest’s business, as opposed to legal, position.</p> <p>Qwest takes issue with the part of Level 3’s definition that cites that to be considered a telephone toll service a separate charge must be made which is not included in contracts for subscribers for exchange service. Yet, this is precisely what the legal definition out of the Act states. 47 USC 153 (48). Qwest’s objection to this</p>

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			<p>that for a toll call to be a toll call, a discrete charge must be imposed. Thus, under this logic, if Level 3 did not charge its customers for VNXX calls, the VNXX calls could not be categorized as toll calls, could not be subject to access charges, and should be subject to reciprocal compensation. Level 3's effort to inject the "Telephone Toll Service" definition appears to be a back door attempt to inject this issue into the agreement. Although Qwest has little dispute between the two definitions, Qwest takes strong issue with a Level 3 assertion that the "telephone toll service" definition means that VNXX is not toll and has been validated by the agreement, with all of its</p>	<p>definition is merely based upon its amorphous fear that by reflecting the federal definition the position of Qwest is in some way indirectly undercut. Either the definition as contained within the Act does or it doesn't support Qwest's view – but the simple reflection of it will not impact that result. For these reasons, the Qwest proposal should be rejected.</p>

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Issue Number/ ICA Section	Issue Description	Disputed Terms	Qwest Position	Level 3 Position
Issue No. 12 Sec. 4 Definitions	<p>Level 3 Statement of Issue: Should the Agreement define the term "IntraLATA Toll Traffic" using terms defined in the federal Communications Act?</p> <p>Qwest's Statement of the Issue: Should the parties use a definition of "IntraLATA Toll Traffic" that is identical to the Commission-approved definition?</p>	<p>"IntraLATA Toll Traffic" describes IntraLATA Traffic that constitutes Telephone Toll Service outside the Local Calling Area.</p>	<p>attendant implication for access charges and reciprocal compensation.</p> <p>Both definitions accurately describe a type of IntraLATA toll call in different ways. However, Level 3's injection of the "Telephone Toll Service" definition again raises the issue of whether Level 3 believes that the inclusion of that definition means that traffic between two exchanges (i.e., interexchange traffic) is exempt from access charges. If so, the companies have a major dispute on this issue. The dispute can be avoided by simply adopting Qwest's language, which is clear and has been widely accepted in SGATs and interconnection agreements.</p>	<p>Yes. Level 3's contract defines the term "IntraLATA Toll Traffic" by reference to a type of traffic, Telephone Toll, that is defined in the federal Act. Qwest's proposed definition should be rejected because it relies upon terms that are not found in the federal Act, and are vague and ambiguous.</p>

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<p>Issue No. 13 Sec. 4 Definitions</p>	<p>Level 3 Statement of Issue: Whether the Agreement should contain a definition of a term that is used by Qwest to shift to Level 3 the costs of Qwest's facilities on Qwest's side of the point of interconnection? Qwest's Statement of the Issue: Setting aside who bears the costs of interconnection, should the Agreement contain a definition of the trunk facility that connects Qwest's network to Level 3's network?</p>	<p><u>LIS refers to the physical linking of the Parties' networks for the exchange of Telecommunications Traffic.</u> <i>"Local Interconnection Service or "LIS" Entrance Facility" is a DS1 or DS3 facility that extends from CLEC's Switch location or Point of Interconnection (POI) to the Qwest Serving Wire Center. An Entrance Facility may not extend beyond the area served by the Qwest Serving Wire Center.</i></p>	<p>"Local Interconnection Service or 'LIS' Entrance Facility" is the facility that connects Qwest's network to Level 3's network. Contrary to Level 3's claim, the definition does not contain any language that determines who bears the cost of this facility. Level 3 provides no legitimate reason for rejecting this definition. Compensation issues are dealt with elsewhere in the agreement and the inclusion of this necessary definition does not resolve those issues one way or the other.</p>	<p>Level 3 opposed this entire definition, because the term is used by Qwest to shift the costs of Qwest's network to Level 3.</p>
<p>Issue No. 14</p>	<p>Level 3 Statement of</p>	<p><u>Telephone exchange service - The term</u></p>	<p>Level 3's language deletes the term "Exchange</p>	<p>Yes. Level 3's contract</p>

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Sec. 4 Definitions	<p>Issue: Whether the Agreement should define traffic using terms defined in the federal Communications Act?</p> <p>Qwest's Statement of the Issue: Should the Commission adopt a definition of "Exchange Service" or "Extended Area Service (EAS)/Local Traffic" that means "traffic that is originated and terminated within the same Local Calling Area as determined by the Commission"? In addition to that, should the Commission also adopt a definition of "Telephone Exchange Service" that is</p>	<p><u>"telephone exchange service" means (A) service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge, or (B) comparable service provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service.</u></p> <p><i>"Exchange Service" or "Extended Area Service (EAS)/Local Traffic" means traffic that is originated and terminated within the LCA as determined by the Commission. This is a necessary and critical definition. Exchange Service is used in paragraphs throughout the agreement (most of which Level has not disputed). Qwest objects to the removal of Qwest's definition for "Exchange Service" as it is used repeatedly throughout the agreement and is therefore necessary.</i></p>	<p>Service" and attempts to replace it with the term "Telephone Exchange Service." Qwest's definition for "Exchange Service" or "Extended Area Service (EAS)/Local Traffic" means traffic that is originated and terminated within a LCA as determined by the Commission. This is a necessary and critical definition. Exchange Service is used in paragraphs throughout the agreement (most of which Level has not disputed). Qwest objects to the removal of Qwest's definition for "Exchange Service" as it is used repeatedly throughout the agreement and is therefore necessary.</p>	<p>defines the term "Telephone Exchange Service" using the definition contained in the federal Act. This is the proper definition of Telephone Exchange Service. Qwest's proposed redefinition of the term should be rejected.</p>

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Issue No. 15. Sec. 4 – Definitions	<p>substantially the same as the definition of that term proposed by Level 3?</p> <p>Level 3 Statement of Issue: Whether the Agreement should define traffic using terms defined in the federal Communications Act?</p> <p>Qwest's Statement of the Issue: Is it necessary to have a separate definition of "Telephone Toll Service"?</p>	<p><u>Telephone toll service - the term "telephone toll service" means telephone service between stations in different exchange areas for which there is made a separate charge not included in contracts with subscribers for exchange service.</u></p>	<p>As noted in Qwest's discussion of other issues, the "telephone toll service" definition is not in itself controversial. What is controversial is Level 3's attempt to avoid access charges on telephone toll elsewhere in the agreement. The real issue regarding this definition is Level 3's attempt to exempt "telephone toll service" from access charges and instead treat this traffic as local, and therefore subject to reciprocal compensation. Level 3 proposes that telephone toll service be included in section 251(b)(5) traffic, traffic</p>	<p>Level 3's contract defines the term "Telephone Toll Service" using the definition contained in the federal Act. This is the proper definition of Telephone Toll Service.</p>

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			<p>that is treated as local, that is subject to reciprocal compensation, and not subject to access charges. While this is one of the few places where Level 3 spells out that it is making a definitional attempt to include toll with section 251(b)(5), Level 3 then uses the term 251(b)(5) traffic throughout the agreement without mentioning the fact that it has defined it to include toll. This is an inappropriate attempt to redefine categories of traffic in ways that will dramatically change methods of compensation. It should not be accepted by the Commission.</p>	

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Issue Number/ ICA Section	Issue Description	Disputed Terms	Qwest Position	Level 3 Position
Issue No. 16 Sec. 4 – Definitions and 7.2.2.12	<p>Level 3 Statement of Issue: Assuming that the Agreement will define “Voice over Internet Protocol” or “VoIP”, should the definition of “VoIP” contain substantive terms that limit the circumstances in which the Parties will exchange traffic, and the compensation that will be derived from the exchange of VoIP traffic?</p> <p>Qwest’s Statement of the Issue: Whether “VoIP Traffic” should be defined according to the standard industry definition that specifies the types of equipment involved, requires that the call</p>	<p>“VoIP” (Voice over Internet Protocol) traffic is traffic that originates or terminates in Internet Protocol at the premises of the party making the call using IP-Telephone handsets, end user premises Internet Protocol (IP) adapters, CPE-based Internet Protocol Telephone (IPT) Management “plug and play” hardware, IPT application management and monitoring hardware or such similar equipment and is transmitted over a broadband connection to or from the VoIP provider.</p> <p>7.2.2.12 VoIP traffic. VoIP traffic as defined in this agreement shall be treated as an Information Service, and is subject to interconnection and compensation rules and treatment according to this Agreement based on treating the VoIP Provider Point of Presence (“POP”) as an end user premise for purposes of determining the end points for a specific call.</p>	<p>Following the filing of Level 3’s initial Matrix and as described in Mr. Brotherson’s Direct at 26-27, Qwest moved a portion of its original definition of “VoIP” into section 7.2.2.12 because the language moved was more appropriately included in the terms and conditions and not in a definition. The move did not otherwise represent a substantive change.</p> <p>Both parties agree that IP-IP calls are VoIP. However, since such calls never enter the PSTN, they are irrelevant to this agreement. The parties agree that an IP-TDM call is a VoIP call. The parties also agree that a TDM-IP-TDM is not a VoIP call. The parties, however, disagree on the proper treatment of a</p>	<p>Level 3 is agreeable to identifying a definition of VoIP traffic that is reasonably related to the FCC’s <i>Vonage Order</i>. Qwest’s proposed definition not only does not match the definition of VoIP adopted by the FCC, it goes far beyond just defining the traffic. Qwest’s proposed definition of VoIP directly controls the substantive rights and obligations to exchange traffic based on the physical geographic location of the originating caller. A key and fundamental component of the FCC’s definition of VoIP service is that the location of the end users are not generally known. Therefore, Qwest’s</p>

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	<p>originate in Internet Protocol ("IP"), and requires that the call be transmitted over a broadband connection to the VoIP Provider?</p>		<p>TDM-IP call. Consistent with the guidance of the FCC, Qwest takes the position such calls, because they do not originate in IP, are not VoIP calls. Level 3, inconsistent with FCC guidance and its own proposed language, however, claims that such calls should be treated as VoIP calls.</p> <p>Qwest applies the ESP exemption in a consistent manner, treating the ESP POP as the relevant location for the determination whether VoIP traffic is local or interexchange in nature.</p> <p>VoIP traffic should be treated consistently with the treatment accorded other traffic and should be subject to the same regulatory</p>	<p>proposed definition fails. Fundamental to Qwest's view on IP-enabled traffic is its strained interpretation of the ESP exemption and the manner in which such interpretation guarantees Qwest substantially enhanced revenues. However, a pivotal flaw to Qwest's advocacy with regards to the ESP exemption is both the public policy and the technology that undergirds it. Qwest fails to recognize the fact that the facilities used to deliver and transport an IP-Enabled call are not those utilized in the legacy circuit based network upon which access charges have been</p>

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			<p>regimes that properly apply.</p> <p>Level 3 proposes that all VoIP traffic should be subject to terminating compensation at \$.0007 per MOU and likewise that no VoIP traffic be subject to access charges. Neither position is supported by the law. Level 3 takes the unsupported position that the ESP exemption gives ESPs complete exemption from access charges under all circumstances, a position neither supported by the language of the exemption nor historical practice in its application. Level 3 erroneously contends that the ESP exemption in effect gives ESPs LATA-wide ability to originate and terminate traffic.</p> <p>Level 3's request is, in essence, a request that it be</p>	<p>applied. Furthermore, the ESP exemption was adopted by the FCC for the very reason that Qwest is seeking to impose access charges – namely that the unwarranted imposition of access costs on the IP based network and business would thwart its full development for public welfare – and prevent its highest and best use.</p> <p>Moreover, Qwest's proposed definition seeks to establish compensation terms and conditions, and routing obligations and prohibits, as part of the definition. The Commission should reject Qwest's proposed definition of VoIP in its</p>

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Issue No. 17 Section 7.2.2.8.4, 7.2.2.8.6.1, and 7.2.2.8.6.2	<p>Level 3 Statement of Issue: Is Level 3 required to assume the costs of building facilities and establishing trunks and manage the capacity requirements on Qwest's side of the Point of Interconnection?</p> <p>Qwest's Statement of the Issue: Should Level 3 be required to provide forecasts to Qwest and if so, should Level 3 be responsible for costs Qwest incurs to</p>	<p>7.2.2.8.4 The forecast will identify trunking requirements for a two (2) year period. From the semi-annual close date as outlined in the forecast cycle, the receiving Party will have one (1) month to determine network needs and place vendor orders which may require a six (6) month interval to complete the network build. See also Section 7.2.2.8.6.</p> <p><i>7.2.2.8.4 The Parties agree that trunk forecasts are non-binding and are based on the information available to each respective Party at the time the forecasts are prepared. Unforecasted trunk demands, if any, by one Party will be accommodated by the other Party as soon as practicable based on facility availability. Switch capacity growth requiring the addition of new switching modules may require six (6) months to</i></p>	<p>given regulatory preference, a position that violates the Act's requirement of competitive neutrality and sound public policy.</p> <p>Qwest has withdrawn the deposit requirements in sections 7.2.2.8.6.1 and 7.2.2.8.6.1. Qwest also offered new forecasting language represented by sections 7.2.2.8.4 and 7.2.2.8.5.</p> <p>LIS forecasting serves the interests of both parties by helping to ensure that adequate capacity is made available to allow for the exchange of traffic between the parties. Thus, forecasts are critical.</p> <p>Although Qwest has offered Level 3 the new language,</p>	<p>entirety</p> <p>Qwest is responsible for terminating all traffic to Level 3 at the POI. Level 3 is not required to pay any costs incurred on the Qwest side of the POI. These provisions force Level 3 to play a role in managing the trunks and facilities on Qwest's side of the network, and they should be rejected in a manner consistent with the Commission's conclusion on Issue 1.</p>

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	provide capacity to meet erroneous forecasts?	<i>order and install.</i> 7.2.2.8.5 <i>In the event of a dispute regarding forecast quantities, where in each of the preceding eighteen (18) months, trunks required is less than fifty percent (50%) of forecast, Qwest will make capacity available in accordance with the lower forecast.</i>	Level 3 has not yet informed Qwest if the revisions are acceptable.	
Issue No. 18 Sec. 7.3.9	Level 3 Statement of Issue: May the Parties rely upon jurisdictional allocation factors to identify the compensation for the types of traffic exchanged? Qwest's Statement of the Issue: Whether Qwest's mechanized billing systems and procedures should be	7.3.9 To the extent a Party combines Section 251(b)(5) Traffic Exchange Service (EAS/Local), IntraLATA LEC Toll, and Jointly Provided Switched Access (InterLATA and IntraLATA calls exchanged with a third party IXC) traffic on a single LIS trunk group, the originating Party, at the terminating Party's request will declare <u>monthly</u> quarterly PLU(s) <u>PIU(s)</u> , and <u>PIPU(s)</u> , collectively " <u>Jurisdictional Factors</u> ." Such <u>Jurisdictional Factors</u> PLUs will be verifiable with either call summary records utilizing <u>Call Record Calling Party Number</u> information for jurisdictionalization or call detail samples. The terminating Party should apportion per	Qwest's language proposes a PLU for use in limited situations: to apportion billing for traffic that does not contain a calling party number and therefore, cannot be jurisdictionalized based on a comparison of the calling and called parties' numbers. Qwest's proposed PLU would only be applied to the bucket of these "unidentified" calls to determine what percent should be billed at the local rate.	Level 3's Section 7.3.9 of the Agreement allows the Parties to accurately measure and exchange compensation based on allocation factors that rely upon call records. Unlike Qwest's vague and ambiguous proposed terms, Level 3's contract establishes clear instructions on how the Parties will measure and report Interexchange, ISP-bound and IP-Enabled

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	<p>replaced by a manual system based upon jurisdictional allocation factors.</p>	<p>minute of use (MOU) charges appropriately.</p> <p>7.3.9.1 The Jurisdictional Factors - PLU, PIU and PIPU - are defined as follows:</p> <p>7.3.9.1.1 PIPU – Percent IP Usage: This factor represents the traffic that is IP Enabled as a percentage of ALL traffic. CLEC has introduced this factor to identify IP-Enabled Services traffic for billing purposes to Qwest on an interim basis until an industry standard is implemented. IP-Enabled traffic includes all IP-TDM and TDM to IP traffic that is exchanged directly between the parties.</p> <p>7.3.9.1.2 PIU – Percent Interstate Usage: This factor represents the end-to-end circuit switched traffic (i.e. TDM-IP-TDM) that is interstate for services that are billed at tariffed rates on a per Minute Of Use (MOU) basis as a percentage of all end-to-end circuit switched traffic, i.e. all interstate traffic after IP-Enabled traffic has been excluded. This factor does not include IP-Enabled Services Traffic.</p>	<p>Level 3's proposal, however, goes along with its desire to commingle all of its traffic on LIS trunks. For the reasons set forth in Issue No. 2, Qwest opposes that proposal. The only reason for introducing the factors proposed by Level 3 is to allow for billing when switched access traffic is commingled with all other traffic on a LIS trunk group. As Qwest noted in its discussion of Issue No. 2, these factors would not be necessary if switched access traffic were carried over a FGD trunk group, as opposed to a LIS trunk group. There is simply no reason to go to a system of factors, with all the difficulties they present, when a workable solution to combining all traffic on a</p>	<p>traffic, irrespective of the rate of compensation to be established by the Agreement. Allocation factors are regularly used to apportion compensation for the exchange of traffic. Qwest's own proposal would rely upon allocation factors to apportion the costs of facilities and trunks on Qwest's side of the Point of Interconnection. Jurisdictional allocation factors are not new. For decades, the FCC has relied on these factors to track and bill for compensation. In the 1989 <i>Joint Board Recommended Decision and Order</i>, the federal-state</p>

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		<p>7.3.9.1.3 PLU – Percent 251(b)(5) Usage: This factor represents the end-to-end circuit switched 251(b)(5) traffic as a percentage of all end-to-end circuit switched intrastate traffic. This factor distinguishes traffic that is rated as “local” (i.e. “Section 251(b)(5) traffic”) from intrastate toll traffic. This factor does not include IP-Enabled Services traffic.</p> <p>7.3.9.2 Unless otherwise agreed to by the parties: (1) factors will be calculated and exchanged on a monthly basis. Percentages will be calculated to two decimal places (for example 22.34%); (2) each party will calculate factors for all traffic that they originate and exchanged directly with the other Party; and (3) the party responsible for collecting data will collect all traffic data, including but not limited to Call Detail Records (this includes CPN), from each trunk group in the state over which the parties exchange traffic during each study period. The parties will calculate the factors defined in Section 7.9.1, above, as follows:</p>	<p>single trunk group already exists. In addition, the existing FGD solution is superior to Level 3’s proposal in that it relies on actual traffic information to determine accurate jurisdiction of recorded calls, not estimates which may, or may not, be accurate and at the very least will require continual updating. Further, as there is no industry standard method of determining IP-enabled services at this time, the PIPU factor proposed by Level 3 is unverifiable by Qwest, and includes traffic that does not conform to the definition of VOIP proposed by Qwest and discussed in Mr. Brotherson’s testimony. Finally, as discussed previously, the system of factors proposed by Level 3</p>	<p>Joint Board on Universal Service created a reporting process to track what percent of usage of the ILEC’s network was interstate and what percent was intrastate for billing purposes. It is referred to as the "Percent Interstate Usage" or "PIU" method. The core of the PIU method is that compensation is based upon the jurisdictional percentage of the traffic that is exchanged over the trunks. Audits confirm the allocation so that charges may be properly allocated. Ultimately, allocation factors and the processes as Level 3 proposes represent a</p>

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		<p>7.3.9.2.1 <u>PIPU: The PIPU is calculated by dividing the total IP-Enabled Services MOU by the total MOU. The PIPU is calculated on a statewide basis.</u></p> <p>7.3.9.2.1.1 <u>Upon ILEC request, CLEC will provide a PIPU factor for all minutes of usage exchanged directly between the Parties over the Interconnection Trunk Groups in each state. CLEC will provide separate PIPU factors for CLEC Terminating IP-enabled Traffic and CLEC Originating IP-enabled Traffic, which terms are defined in sections 7.8.4.3.1.1 and 7.8.4.3.1.2, respectively, below.</u></p> <p><u>Accordingly, the PIPU factor is based upon CLEC's actual and verifiable Call Detail Records of IP-originated traffic</u></p> <p>7.3.9.3 <u>Exchange of Data:</u></p> <p>7.3.9.3.1 <u>The party responsible for billing will provide the PIPU, PLU and PIU factors to the non-collecting party on or before the 15th of each month, via email (or other method as mutually agreed between the parties), to designated points of contact</u></p>	<p>does not allow for the creation of jointly provided access records which are relied upon by CLECs and ILECs who terminate jointly provided switched access traffic.</p>	<p>sound business-like approach to ensuring that Qwest receive its appropriate compensation without unnecessarily inhibiting Level 3 and other IP-enabled traffic providers. Qwest would have Level 3 and similarly situated carriers undergo the unnecessary delay and unnecessary expense of either creating a redundant network structure in the form of FGD trunks or, alternatively awaiting such time as Qwest decides to enhance its legacy billing system – a decision for which no incentive exists should Qwest prevail. In fact, Qwest has the opposite incentive – to force carriers such as Level 3</p>

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		<p><u>within each company.</u></p> <p>7.3.9.4 <u>Maintenance of Records</u></p> <p>7.3.9.4.1 <u>Each company will maintain traffic data on a readily available basis for a minimum period of one year (or however long as required by state and federal regulations) after the end of the month for which such date was collected for audit purposes.</u></p> <p>7.3.9.5 <u>Audits</u></p> <p>7.3.9.5.1 <u>Each company will have the ability to audit the other company's traffic factors up to a maximum of twice per year. A party seeking audit must provide notice of their intent to audit and include specific dates, amounts and other detail necessary for the party receiving the request to process the audit. Notice must be provided in writing and postmarked as mailed to the audited party within one year after the end of each month(s) for which they seek audit.</u></p> <p>7.3.9.5.2 <u>The audited party must provide in a mutually agreeable electronic</u></p>		<p>to incur these unnecessary costs and to create this redundant network to enable Qwest to delay their market entry and at the same time enhance their revenues.</p> <p>The balance as regards to this issue needs to fall on the side of competitive, advanced services and not on the side of the unsupported, unsubstantiated, averred fears of Qwest.</p>

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Issue No. 19 7.3.6.2	<p>Level 3 Statement of Issue: Whether the Parties should use the FCC's 3:1 ratio to determine what traffic is ISP-bound traffic or whether they should use Qwest's method for tracking ISP-bound traffic where the Commission has previously ruled that Qwest's method is sufficient?</p> <p>Qwest's Statement of the Issue:</p>	<p><u>format traffic data for the months requested according to Section 7.3.9.5.1 above.</u></p> <p>7.3.9.6 True-Up <u>In addition to rights of audit, the Parties agree that where a factor is found to be in error by more than 2%, they will automatically true up the factors and pay or remit the resulting amounts to correct such errors.</u></p> <p>7.3.6.2 Identification of ISP-Bound Traffic – <i>unless the Commission has previously ruled that Qwest's method for tracking ISP-bound Traffic is sufficient</i>, Qwest will presume traffic delivered to CLEC that exceeds a 3:1 ratio of terminating (Qwest to CLEC) to originating (CLEC to Qwest) traffic is ISP-Bound traffic. Either Party may rebut this presumption by demonstrating the factual ratio to the state Commission. Traffic exchanged that is not ISP-Bound traffic will be considered to be section 251(b)(5) traffic.</p>	<p>The language at issue, “unless the Commission has previously ruled that Qwest’s method for tracking ISP-Bound Traffic is sufficient” provides that if a Commission has previously ruled that Qwest’s method of identifying actual ISP-bound traffic is sufficient, then that method of identifying actual local and ISP minutes should be employed instead of the presumption formula. This</p>	<p>ISP-bound traffic should be identified using the FCC’s rebuttable presumption that traffic which exceeds a 3:1 terminating to originating ratio is deemed to be ISP-bound traffic. Qwest’s inclusion of language concerning a prior commission ruling is inappropriate given that Qwest has voluntarily opted into the FCC’s ISP-bound</p>

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	<p>Whether the Parties should use a Commission-approved method by which Qwest tracks ISP-bound traffic as the method for such tracking under the agreement and, in the alternative, whether the FCC's 3:1 ratio should be used in the event the Commission has not approved an alternative method.</p>		<p>position is consistent with the <i>ISP Remand Order</i>. Qwest has brought this issue up elsewhere and has successfully rebutted the 3:1 presumption. In Arizona, because Qwest has not yet brought this matter before the Commission, the Commission has not yet ruled on Qwest's method of identifying ISP traffic. However, because Level 3 does not object to the language "Either party may rebut this presumption by demonstrating the factual ratio to the state Commission," Qwest has no objection to removing the language "unless the Commission has previously ruled that</p>	<p>compensation framework, a key aspect of which is the 3:1 ratio. Furthermore, the Agreement should not reference unspecified "prior" commission rulings. These vague and ambiguous terms will only lead to disputes.</p>

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<p>Issue No. 20 Section 7.3.8.</p>	<p>Level 3 Statement of Issue: In identifying IP enabled traffic, should be parties allow for call records that will include information other than Calling Party Number? Qwest's Statement of the Issue: What signaling information should the Agreement require the parties to provide to each other?</p>	<p>7.3.8 Signaling Parameters: Qwest and CLEC are required to provide each other the proper signaling information (e.g., originating Calling Record information Party Number and destination called party number, etc.) <i>per 47 CFR 64.1601</i> to enable each Party to issue bills in a complete and timely fashion. All CCS signaling parameters will be provided including Call Record information ("CRI") Calling Party Number ("CPN"), Originating Line Information Parameter (OLIP) on calls to 8XX telephone numbers, calling party category, Charge Number, etc. All privacy indicators will be honored. If either Party fails to provide CRI CPN (valid originating information), and</p>	<p>Qwest's method for tracking ISP Bound Traffic is sufficient."</p>	
			<p>Level 3's language mischaracterizes <i>IP origination</i> as a technical limitation to providing signaling parameters. Level 3's proposed language also creates an obligation to populate a signaling parameter, specifically Call Record Information ("CRI"), which does not exist within the SS7 protocol. In addition, Level 3 does not define CRI. To the extent Level 3's definition of CRI would use</p>	<p>Level 3's proposed terms and conditions allow the parties to exchange records that may include information other than just the Calling Party Number of the originating caller. Level 3 proposes relying on "Call Record" to identify the data within the call records. The "Call Record" reference allows for more flexibility for Level 3 and Qwest to agree to</p>

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		<p>cannot substantiate technical restrictions (e.g. <i>i.e.</i>, MF signaling, IP origination, etc.) such traffic will be billed as interstates Switched Access. Transit Traffic sent to the other Party without CRI CPN (valid originating information) will be handled in the following manner. The transit provider will be responsible for only its portion of this traffic, which will not exceed more than five percent (5%) of the total Exchange Service (EAS/Local) and IntraLATA LEC Toll traffic delivered to the other Party. The Switch owner will provide to the other Party, upon request, information to demonstrate that Party's portion of no CRI CPN traffic does not exceed five percent (5%) of the total traffic delivered. The Parties will coordinate and exchange data as necessary to determine the cause of the CRI CPN failure and to assist its correction. All Exchange Service (EAS/Local) and IntraLATA LEC Toll calls exchanged without CRI CPN information will be billed as either Exchange Service (EAS/Local) Traffic or IntraLATA LEC Toll Traffic in direct proportion to the minutes of use (MOU) of calls exchanged with CRI CPN information for the preceding quarter, utilizing a PLU factor determined in</p>	<p>similar terms as are used in Level 3's definition of Call Record, it is not at all clear that the requirement to provide the CRI can be met. Level 3's proposed language also fails to acknowledge that the FCC has recognized certain limitations exist that prohibit or limit the delivery of specific types of signaling information. Qwest further objects to Level 3's language because it inappropriately applies interstate switched access rates onto traffic that is intrastate.</p>	<p>new or different technologies in recording. SBC's proposed "CPN" reference limits the Parties to only that form of technology.</p>

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Issue No. 21 Section 7.4.1.1	<p>Level 3 Statement of Issue: Whether, when ordering Interconnection, Level 3 could be deemed to implicitly agreeing to pay the costs of the trunks and facilities on Qwest's side of the POIP</p> <p>Qwest's Statement of the Issue: Whether Level 3's proposed Section 7.4.1.1 is necessary when no provision in Section 7.4 allocated responsibility for the cost of interconnection.</p>	<p>accordance with Section 7.2.2.9.3.2 of this Agreement</p> <p>7.4.1.1 Nothing in this section 7.4 shall be construed to in any way affect the Parties' respective obligations to pay each other for any activities or functions under this Agreement. All references in this section 7.4 to 'ordering' shall be construed to refer only to the administrative processes needed to establish interconnection and trunking arrangements and shall have no effect on either Party's financial obligations to the other.</p>	<p>Qwest opposes this proposed language for two reasons. First, for all the reasons set forth elsewhere, Level 3's contention that it has no financial obligation on Qwest's side of the POI is legally misplaced and should be ignored by the Commission.</p> <p>Second, even if Level 3's argument were valid, Section 7.4 of the agreement relates only to the ordering of local interconnection service and does not purport to address allocation of responsibility for the cost of interconnection. The fact that Level 3 requests (or orders) facilities on Qwest's side of the network</p>	<p>As noted in Issue 1, Level 3 is not required to pay the costs of the trunks and facilities on the Qwest side of the POI. However, Qwest's proposed agreement contains terms that imply that Level 3 is obligated to pay for a portion of Qwest's costs incurred on the Qwest side of the POI. This language is necessary to clarify and confirm that Level 3 is not required to pay these costs.</p>

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Issue No. 22 Section 19.1.1.	<p>Level 3 Statement of Issue: Whether Qwest may compel Level 3 to incur special construction charges for work completed on Qwest's facilities and network on Qwest's side of the POIP</p> <p>Qwest's Statement of the Issue:</p>	<p><u>19.1.1. Nothing in this section 19 shall be construed to in any way affect the Parties' respective obligations to pay each other for any activities or functions under this Agreement. All references in this section 19 to construction charges be construed to refer only to those Level 3 requests for construction that are outside the scope of what is needed to establish interconnection and trunking arrangements and shall have no effect on either Party's financial obligations to the other.</u></p>	<p>demonstrates that the interconnection is done for Level 3's benefit. Level 3 makes requests for Qwest facilities on Qwest's side of the point of interconnection so that Level 3 can serve its own ISP customers.</p> <p>Section 7.4.1.1 is simply unnecessary.</p>	<p>Through Section 19.1.1 of the agreement, Qwest seeks to impose special construction charges on Level 3 for costs incurred by Qwest in building out its network for interconnection with Level 3. Section 19.1.1 is necessary to clarify that Qwest may not compel Level 3 to pay for costs on Qwest's</p>

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	Whether Level 3's proposed Section 19.1.1 is appropriate when nothing in Section 19 allocates responsibility for payment of construction of facilities.		3 and Level 3's ISP end user customers. If Level 3 and its ISP end user customers are benefiting by the additional cost for building facilities, Qwest should not bear that cost. Under the Act, Qwest is entitled to just and reasonable compensation for the costs it incurs.	side of the POI.

END