Exhibit 3

Affidavit of Jamie Moyer

BEFORE THE
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

LEVEL 3 COMMUNICATIONS, LLC, Petitioner, v. QWEST CORPORATION, Respondent. PAC-WEST TELECOMM, INC., Petitioner v. QWEST CORPORATION, Respondent	)	Docket No. UT-053039 **LEVEL 3 COMMUNICATIONS, LLC'S AFFADAVIT OF JAMIE MOYER** Docket No. UT-053036

AFFIDAVIT OF JAMIE MOYER

1. My name is Jamie Moyer. I am employed by Level 3 Communications, LLC ("Level 3"). My business address is 1025 Eldorado Boulevard Broomfield, CO 80021.

2. I have been employed by Level 3 since 2000. Presently, I serve Level 3 as the Senior Director of Interconnection Services. In this position, I am responsible for negotiation, implementation and enforcement of interconnection agreements with over one hundred and fifty incumbent LECs (including RBOCs and Rural LECs), competitive LECs, CMRS providers, cable MSOs and other communications providers nationwide. Prior to my becoming Director and then Senior Director of Interconnection Services, I served as Director Customer Access Solutions for Level 3. In that capacity, I handled product management matters for Access Solutions to the Level 3 Network. I am filing this affidavit on behalf of Level 3.

3. On June 9, 2005, Pac-West Telecomm, Inc. ("Pac-West"), filed with the Washington Utilities and Transportation Commission ("Commission") in Docket UT-053036 a petition seeking enforcement of terms of its interconnection agreement with Qwest Corporation ("Qwest") concerning compensation for locally-dialed traffic to Internet service providers ("ISPs"). Qwest filed counterclaims against Pac-West contesting compensation for ISP-bound traffic and the propriety of Pac-West's alleged use of VNXX arrangements under the parties' interconnection agreement.

4. On June 28, 2005, Level 3 filed with the Commission in Docket UT-053039 a petition seeking enforcement of terms of its interconnection agreements with Qwest concerning compensation for locally-dialed ISP-bound traffic. Qwest also filed counterclaims against

Level 3 contesting compensation for ISP-bound traffic and the propriety of Level 3's use VNXX traffic under the parties' interconnection agreements.

5. On February 10, 2006, the Commission entered orders in both Dockets UT-053036 and UT-053039 clarifying that the scope of the FCC's *ISP Remand Order* applies to all ISP-bound traffic, regardless of the point of origination and termination of the traffic.

6. On February 21, 2006, Qwest filed a petition for reconsideration of these orders. On June 9, 2006, the Commission denied Qwest's petition for reconsideration in both dockets.

7. On July 10, 2006, Qwest sought review in federal district court of the Commission's orders in Dockets UT-053036 and UT-053039. On April 9, 2007, a magistrate for the U.S. District Court for the Western District of Washington entered a decision rejecting the Commission's orders and remanding them for additional consideration.[1]

8. While these matters were on review in federal court, Qwest filed a complaint in Docket UT-063038 against nine CLECs, including Pac-West and Level 3, alleging the CLECs' use of VNXX numbering arrangements violated Qwest's tariff's, state law and public policy.

9. On February 15, 2008, the Commission entered Order 07—Order Staying Proceeding in Dockets UT-053036 and UT-053039 until the conclusion of the complaint proceeding, after which a prehearing conference would be scheduled.[2] The complaint proceeding has now concluded.

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[1] *Qwest Corporation v. Washington Utils. And Transp. Comm'n*, 484 F.Supp.2d 1160 (W.D.W. 2007).

[2] On August 13, 2008, the Commission entered its Order 11 – Order Granting In Part Motion for Clarification and/or Petition for Reconsideration; Denying Motion for Leave to Answer.

10. On July 16, 2008, the Commission served its Final Order in this proceeding, in which it reversed its prior precedent and determined that VNXX traffic is intrastate interexchange traffic and imposed a bill-and-keep regime (*i.e.*, a rate of zero) on such traffic unless the traffic met a new physical location test.

11. On August 13, 2008, the Commission issued Order No. 11, clarifying that under its new regime in the Final Order, ISP-bound traffic is classified as local and subject to intercarrier compensation where the calling party and the ISP's server or modem are physically located in the same local calling area.

12. The Commission's new classification methodology is unworkable. First, Level 3 generally does not know where an ISP customer deploys its servers and modems. Based on Internet architecture principles, an ISPs' servers and modems are most often deployed in multiple locations, including outside of Washington. Whether a single ISP-bound session is routed to a particular server or modem may vary by call, and even during a single call. The path of the call is determined dynamically through SS7 connections between networks and calls to the same number placed at the same time could end up using equipment in two completely different parts of the country. Further, it is Level 3's experience that some of its ISP customers may not have a modem at all choosing to rely on their network carrier provider for such capabilities.

13. In fact, ISP-bound traffic is routed on the basis of Internet addresses that do not readily translate to a physical location. Moreover, multiple different types of "servers" may be involved in a single ISP-bound session, and the Commission has not defined servers for its new physical location test. Exhibit A demonstrates a Dial – Up Internet session of two users,

in the same town, who both dial the same ISP Number but use ISP servers in different locations throughout the United States. Contrary to the WUTC's presumptions, it is impractical for carriers to distinguish locally dialed VNXX calls from all other "local" calls, both for ISP-bound and voice traffic. Nor is it practical to classify calls based upon the location of the ISP customer's facilities.

14. To the extent that Level 3 has information on the location of its ISP customers' servers and modems, this information indicates that these facilities are often outside the state of Washington. Level 3 believes that a large quantity of its locally-dialed ISP-bound traffic that originates in Washington would be classified as interstate traffic based on the new modem/server physical location test.

15. In the Final Order, the Commission presumes that LECs can use traffic studies or switch programming to track, record, and segregate VNXX traffic from other locally-dialed traffic. I am not aware of any method that could be used to program Level 3's switches or any switch to distinguish VNXX from other from all other "local" calls, both for ISP-bound and voice traffic. Furthermore, before Level 3 could design a traffic study that might be able to distinguish VNXX from other locally-dialed traffic, it would need information on the physical location of its customers, servers and modems, which, as noted above, is not readily available.

16. If the WUTC adopts Level 3's position, the determination of the amount owed to Level 3 is straight forward. Qwest owes compensation to Level 3 for all section 251(b)(5) traffic, including all locally-dialed ISP-bound traffic, at the FCC's interim rate of $0.0007 back to the time Qwest stopped paying Level 3's invoices, which commenced with the May 2007 invoice that billed Qwest principally for April 2007 usage.

This Affidavit was prepared under my direction and supervision; and the contents are true and correct to the best of my knowledge, information, and belief.

By: Jamie Moyer
Jamie Moyer, Senior Director
Level 3 Communications, LLC.

Subscribed and Sworn before me this 24th day of March, 2009.

Teresa Montoya
Notary Public

My Commission expires 10-11-2010

TERESA MONTOYA NOTARY PUBLIC STATE OF COLORADO

Exhibit A
To Affidavit of Jamie Moyer

The below illustrates a representative example of two ISP customers in Yakima, WA who are both customers of the same ISP and dial the same local number to reach that ISP at the same time and then perform the same activities at the same time.

STEP	RED USER	BLACK USER
1	At 10am user makes a local call to his ISP and the network provider of the ISP accepts the call	At 10am user makes a local call to his ISP and the network provider of the ISP accepts the call
2	The network provider of the ISP communicates with the ISP's Server in Los Angeles, CA to validate the user's username & password	The network provider of the ISP communicates with the ISPs Server in Dallas, TX to validate the user's username & password
3	The user checks his Email in his Email Account which is supported by the ISP's Server in Denver, CO	The user checks his Email in his Email Account which is supported by the ISP's Server in Atlanta, GA
4	The user the shops for a book and purchases it online from a vendor who has a Server in Chicago, IL	The user the shops for a Music CD and purchases it online from a vendor who has a Server in New York City, NY
5	The user the checks the amount of Dial Up Usage from the ISP's User Account Server in Washington, DC and ends their session	The user the checks the amount of Dial Up Usage from the ISP's User Account Server in Washington, DC and ends their session

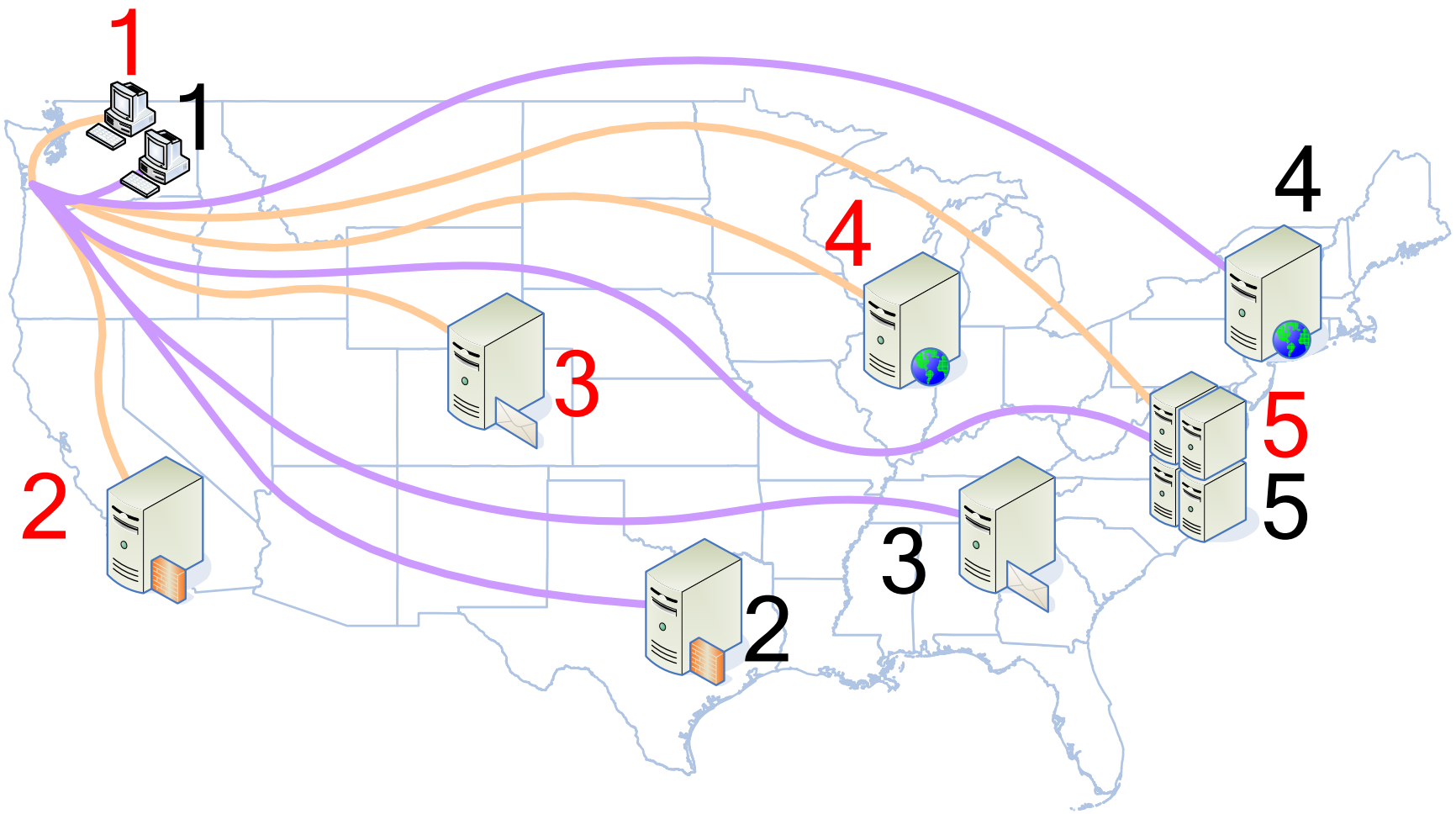

Diagram 1