BEFORE THE WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

QWEST CORPORATION, Complainant, v. LEVEL 3 COMMUNICATIONS, LLC; PAC-WEST TELECOMM, INC.; NORTHWEST TELEPHONE INC.; TCG-SEATTLE; ELECTRIC LIGHTWAVE, INC.; ADVANCED TELCOM GROUP, INC. D/B/A ESCHELON TELECOM, INC.; FOCAL COMMUNICATIONS CORPORATION; GLOBAL CROSSING LOCAL SERVICES INC; AND, MCI WORLDCOM COMMUNICATIONS, INC	DOCKET NO. UT-063038

REBUTTAL TESTIMONY

OF PHILIP LINSE

QWEST CORPORATION

MARCH 20, 2007

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EXHIBIT LIST

I. IDENTIFICATION OF WITNESS

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION WITH QWEST CORPORATION.

A. My name is Philip Linse. My business address is 700 West Mineral Avenue, Littleton Colorado. I am employed as Director – Technical Regulatory in the Network Policy Organization. I am testifying on behalf of Qwest Corporation ("Qwest"). I filed Direct Testimony in this docket on November 20, 2006.

II. PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to respond, on behalf of Qwest, on technical issues raised in the testimonies of Dennis Robins for ELI, Mack Greene for Level 3, Dr. Glenn Blackmon for Level 3 and Broadwing, Diane Peters for Global Crossing Local Services, and John Sumpter for Pac-West.

I will provide Qwest's position from a technical perspective, as it relates to local traffic that originates and terminates within a Local Calling Area ("LCA") and interexchange traffic that originates and terminates in different exchanges and LCAs. Further, my testimony will describe the differences between FX and VNXX, explain that VNXX is not like FX but more like 800 service, describe the reasons why VNXX is inconsistent with the industry's number assignment rules, explain why the use of VNXX is not an efficient use of Qwest's network, discuss why VNXX is anti-competitive and discriminatory, and, finally, respond to inaccurate statements by some of the other witnesses. My testimony will show from a technical perspective that the Qwest position on this issue is reasonable and consistent with industry standards and local calling rules in Washington.

III. VNXX IS NOT THE SAME AS FX

Q. ARE THE RESPONDENTS CORRECT TO CLAIM THAT VNXX IS THE SAME AS FX?

A. No. I address this issue from a more technical perspective, while Mr. Brotherson, whose testimony I agree with, addresses it from a more general perspective.

Q. PLEASE EXPLAIN, AGAIN, THE DIFFERENCES BETWEEN QWEST'S FX SERVICE IN WASHINGTON AND VNXX SERVICE.

A. As I explained in my direct testimony, the differences between FX service and VNXX service include where the services are offered, how the services are provisioned, how traffic is routed, and the types of customers that subscribe to the service.

Qwest's FX service is only offered within the same LATA in which the FX customer is located. VNXX, however, is not limited to an offering within the LATA. CLEC VNXX customers (which typically, though not necessarily, are ISPs) may be located anywhere in the United States or even the world. Thus, a CLEC that relies solely on VNXX to provide service may not have any customers that are located in Washington.

Qwest's FX service is provisioned within a LATA between one LCA (the "open end" or "foreign exchange") and the LCA where the FX customer is located. VNXX, however, is not provisioned from within either the exchange or within the LCA. CLECs that provide VNXX service are providing neither switching services nor local exchange facilities such as loops to customers located within the LCA.

Non-VNXX calls, such as those placed to a subscriber of Qwest's FX service, are associated with services that are physically provisioned to the customer from within

the LCA where the traffic originates. Thus, the routing of the traffic takes place within the foreign exchange and the transport begins in the foreign exchange. In contrast, CLECs that use VNXX simply assign local numbers from one LCA to customers that are located in a different LCA. In doing so, typically a CLEC offering VNXX service inappropriately relies on Qwest to originate and transport the interexchange traffic between LCAs.

Qwest's FX services historically have been used by local business owners that wish to maintain local calling when their business contact location has moved or where businesses may wish to provide local calling from an exchange or exchanges to customer service centers for products or services that are sold from different exchange. And it's important to note that Qwest FX service is *two-way* in nature. It is not used solely as a means of having callers in the foreign exchange call the FX customer; the FX customer may, and often does, call customers in the foreign exchange. VNXX, however, has been historically and predominantly used to provide *one-way* calling from Qwest's end users that are located within the LCA to CLEC ISP customers that are located in a different LCA and may even be located in some other state. The traffic patterns of companies that use VNXX to serve ISPs (see the confidential exhibits to Mr. Brotherson's testimony) definitively demonstrate this fact. Although FX is used by ISPs, unlike FX service, carriers that offer VNXX services are able to offer interexchange service and avoid payment for use of the originating exchange and for interexchange private line transport from the actual LCA because of the way the numbers are inappropriately assigned to provide VNXX service.

Q. THE RESPONDENTS CLAIM THAT BECAUSE OF THE WAY THEY

HAVE DESIGNED AND BUILT THEIR NETWORKS, THEY SHOULD NOT BE REQUIRED TO HONOR THE LOCAL CALLING AREA BOUNDARIES.[1] WHAT FACTORS DICTATED HOW THE RESPONDENTS NETWORKS WERE DESIGNED AND BUILT?

A. The design and subsequent architecture of the Respondent's networks were the result of business decisions made solely by the Respondents. However, LCA boundaries were well established before these networks were built and one can only expect that the Respondents knew about them. Each of the Respondents built its network based on its own business plan—each was well aware (or should have been aware) when it built its networks that there were LCA boundaries that had to be taken into account.

Q. WHAT INFLUENCE DID QWEST HAVE IN THE RESPONDENTS' CHOICE OF NETWORK DESIGN AND ARCHITECTURE?

A. None whatsoever. Despite the Respondents allusions to the contrary, Qwest had absolutely no input into how their networks were constructed. Qwest is not now nor has it ever dictated the use by CLECs of any specific technology or architecture. Despite this fact however, several Respondents now claim that Qwest is requiring them to "change" their networks. That is untrue. Rather, it is Qwest's position that the Respondents cannot simply ignore LCAs and the rules that govern them in order to avoid paying for certain costs or in an effort to seek revenue from Qwest. Furthermore, the Respondents must take steps to honor the preexisting LCA boundaries. How they accomplish this is up to them. But, as Mr. Brotherson points out, they cannot build their networks one way, and then ask the Commission

[1] *Greene Direct* at 21, line 14 through 22, line 16; *Robins Direct* at 10, lines 4-5.

to pretend that they did something else.

Q. ARE YOU AWARE OF RULES THAT WOULD PROHIBIT THE RESPONDENTS FROM PLACING SWITCHING OR OTHER EQUIPMENT IN THE LCAS IN WHICH THEY DESIRE TO PROVIDE SERVICE TO ISPS?

A. No. I am unaware of such a rule or any technical limitation that would prohibit CLECs from doing so.

Q. ARE THERE COSTS ASSOCIATED WITH PLACING EQUIPMENT IN AN LCA?[2]

A. Yes, there are always costs for doing business. But fortunately there are switching manufacturers that provide highly scalable and economical equipment that allow CLECs such as the Respondents to locate switching equipment in the LCA. Again, this is a decision that should be made by each CLEC based on each CLEC's individual situation.

Q. MR. SUMPTER[3] AND MR. ROBINS[4] CLAIM THAT OTHER LECS ARE NOT COMPENSATED FOR QWEST'S FX ARRANGEMENTS. IS THIS TRUE?

A. No. For example, let's assume a Qwest customer located in Olympia moves to an independent LEC exchange nearby, but wishes to retain service in Olympia so that his Olympia customers can continue to call him/her using a local number. In that case, the customer subscribes to FX service in Olympia, pays Qwest the appropriate

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2 *Robins Direct* at 3, lines 1-17 and 11, lines 17-19.

3 *Sumpter Response Testimony* at 5, lines 9-15.

4 *Robins Direct* at 12, lines 23 and 13, lines 1-2.

local exchange rate for Olympia, and purchases a private line from Olympia to his/her new location in the independent LEC's territory. In that situation, Qwest and the independent LEC are jointly providing the private lines circuit and both Qwest and the other LEC will receive compensation for the portion of the facility that each LEC provides to the FX customer. The costs and revenues thus follow cost causation principles.

Q. MR. GREENE TESTIFIES THAT THE DESIGNATION OF "LOCAL" SIMPLY REFLECTS A RETAIL MARKETING DECISION BY THE ORIGINATING CARRIER.[5] IS THIS TRUE?

A. No. As I have explained in my direct testimony, local calling typically occurs within or between exchanges within a community of interest. Additionally, an expanded area of service (EAS) must be approved by the Commission. Mr. Greene's misplaced conclusion oversimplifies the so-called "simple" or "arbitrary" decision of which NPA-NXXs to program into Qwest's switches. Level 3 appears to be dismissing any requirement (other than its own retail marketing decision) to honor local calling areas in Washington. This is made even clearer by Level 3's use of VNXX.

Q. MR. GREENE TESTIFIES THAT THE SWITCH HAS NO WAY TO KNOW WHERE THE END USER IS LOCATED.[6] IS THIS TRUE?

A. No. As I explained in my direct testimony, the switch is programmed so that local calls are routed according to the approved LCAs. Making a switch understand what is local versus what is non-local is accomplished by assigning telephone number

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[5] *Greene Direct* at 11, lines 17-18 and 13, lines 18-24.

[6] *Greene Direct* at 19:14-16 and at 12, lines 24 through 13, lines 1-6.

resources to each switch within each LCA. In other words, numbers are assigned to customers based on what has been defined as the geographic LCA; the LCA is not defined based on the number. The point here is not really what a switch understands, but that the integrity of the geographic numbering system is based on having numbers be properly assigned to customers. VNXX completely ignores this.

Q. WHAT CHOICES DOES QWEST HAVE REGARDING THE ROUTING OF VNXX TRAFFIC TO LEVEL 3[7] AND THE OTHER VNXX PROVIDERS?

A. None. Because Level 3 and other VNXX providers assign telephone numbers so that the origination of the calls appear to be local, Qwest has no choice but to route the traffic to the CLEC that assigns the VNXX numbers. It is the CLEC that provides the VNXX service and chooses to deliver the traffic to a customer that is not located in the originating LCA.

Q. IS QWEST PROPOSING THE CREATION OF SOME TYPE OF SIGNALING OR SWITCH DATABASE TO IDENTIFY THE PREMISE LOCATIONS AS MR. GREENE CONTENDS[8]?

A. No. Qwest does not propose any system or billing changes. Qwest proposes that CLECs such as Level 3 and the other Respondents assign telephone numbers consistent with the LCA within which their customers are located.

Q. IS QWEST PROPOSING, AS MR. GREENE SUGGESTS, THAT THE RESPONDENTS INSTALL ADDITIONAL EQUIPMENT SO THAT THEY

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7 *Greene Direct* at 11, lines 17-18 and at 13, lines 18-24.

8 *Greene Direct* at 12, line 24 through 13, line 11.

MAY HONOR THE BOUNDARIES OF THE LOCAL CALLING AREAS?[9]

A. No. Although this is an option that CLECs could certainly choose, Qwest is not proposing any specific solution that CLECs may use to route their ISP traffic. This decision must be made by the individual carrier. Qwest's point is that there are consequences of a CLEC's network architecture choices. There are ways that CLECs can avoid VNXX, but Qwest does not suggest these be mandated—however, CLECs should not be able to avoid paying compensation or receive compensation on the basis of a pretense that their networks are different than they really are.

Q. IS QWEST PROPOSING THAT THE RESPONDENTS PURCHASE QWEST RETAIL SERVICES OR BECOME A QWEST CUSTOMER IN ORDER TO PROVIDE LOCAL SERVICE TO ISPS[10]?

A. No. Although this too is an option that is available, Qwest is not proposing any specific solution that CLECs may use to route their ISP traffic. Again, this decision needs to be made by the individual carrier.

Q. DOES QWEST'S FX REMOVE THE LINK BETWEEN THE GEOGRAPHIC LOCATION OF THE END USER DIALING A LOCAL NUMBER AND THE GEOGRAPHIC LOCATION OF THE CUSTOMER OF THE TELEPHONE NUMBER DIALED AS MR. GREENE CONTENDS[11]?

A. No, Mr. Greene is mistaken. In fact, there is a very important transport link

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9 *Greene Direct* at 22, lines15-16.

10 *Greene Direct* at 8, lines9-10; *Robins Direct* at 22, lines 1-2.

11 *Greene Direct* at 19, lines 7-10.

between the FX customer and the foreign exchange (which the FX customer pays for at retail private line rates). However, with VNXX, neither the Respondents nor the Respondents' customers are located in the foreign exchange. Furthermore, the Respondents erroneously take the position that all costs related to the traffic to Respondent's ISP customers originated in that distant exchange should be borne by Qwest.

Q. MR. ROBINS PROVIDES A LIST OF ARGUMENTS IN SUPPORT OF HIS CLAIM THAT IF PRIVATE LINE FACILITIES WERE REQUIRED THAT TRUE FX WOULD NOT BE ATTAINABLE.[12] IS THIS TRUE?

A. No. Mr. Robins' arguments are unsupported and illogical. For example, contrary to Mr. Robins' arguments, neither seven-digit dialing nor routing to a seven-digit number is a barrier for the Respondents to provide true FX service. Moreover, beyond his hollow arguments, Mr. Robins provides no explanation as to how they constitute a barrier. Further, Mr. Robins claims that Qwest cannot route to a specific seven-digit number when he does not explain why this would even be needed. Mr. Robins also claims that there would need to be special routing tables and billing systems that do not exist today and special trunk provisioning and ten digit translations with multiple Local Routing Numbers ("LRNs"). This is perplexing since none of these are required to provide FX service and, as such, it is unclear why Mr. Robins believes that they are.

IV. VNXX IS LIKE 800[13] SERVICE

Q. BOTH MR. GREENE[14] AND MR. SUMPTER[15] CLAIM THAT VNXX IS

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12 *Robins Direct* at 22, line 4 through 23, line 9.

13 In my testimony, I refer to "1-800 calling," a term that I believe is generally understood. However, the industry's typical reference to general toll free NPA nomenclature is "8YY."

NOT LIKE TOLL CALLING. DO YOU AGREE?

A. No. As an illustration, my Exhibit PL-3 compares a VNXX call flow and a 1-800 call flow. VNXX is illustrated on the top diagram while a 1-800 service is illustrated by the bottom diagram. I have assumed that both subscribers are Level 3 ISP customers, one using VNXX provided by Level 3 and the other using a 1-800 service provided by Level 3.[16] The call flow takes place between local calling area "A" and local calling area "B." As the call flow progresses from the origination of the calls on the left edge of the page, the first switch the call encounters is an end office switch, where both calls are analyzed for routing instructions. Because the VNXX call uses a "local" number, the end office switch uses an internal database to determine the routing of the call. With the 1-800 call, the end office switch uses the assistance of an external database to determine the routing of the call. Once the routing is determined, both the VNXX call and the 1-800 call are routed to a trunk associated either directly with Level 3 or, as in this exhibit, the call is routed indirectly to Level 3 using a tandem switch. In both call flows, the tandem switch queries an internal database to determine call routing. In each call flow, the call is routed from the tandem switch to the Level 3 switch, which then performs its own database query and routes both the call to the Level 3 ISP customer. The point of this drawing is that the call flows, with the single exception of the database queried for routing instruction, are completely identical. The only significant difference is how the calls are compensated. In the 1-800 call flow, Qwest would receive originating access charges and Qwest would have no obligation to pay terminating

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[14] *Greene Direct* at 24, lines 9-18 and 25, lines 1-15.

[15] *Sumpter Response Testimony* at 15, lines 9-20 and 16, lines 1-6.

[16] These call flows would be the same if any of the Respondents were providing the 1-800 service and VNXX service.

compensation to Level 3. For the VNXX call flow, the Respondents expect free use of Qwest's local network in Local Calling Area "A" to originate the call (i.e., no originating access) and also expect Qwest to pay them terminating compensation. This is a dramatic and revealing difference, when the call flows are essentially identical.

Q. IS QWEST'S FX SERVICE COMPARABLE TO 1- 800 SERVICE?

A. No, they are significantly different. With Qwest's FX service, the customer purchases a facility from Qwest[17] between local calling areas A and B. Further, there is no interexchange switching (*i.e.*, switching that occurs in both LCA A and LCA B) that occurs with an FX.

Q. DOES MR. ROBINS ADMIT THAT VNXX IS LIKE TOLL SERVICE?

A. Yes, indirectly. As Mr. Brotherson has pointed out, Mr. Robins' "FX service" is really relabeled VNXX service. In his testimony, Mr. Robins states that "[o]ver-utilizing FX (VNXX) service would cannibalize ELI's own toll products."[18] The irony is that Mr. Robins is apparently unconcerned about the impacts that VNXX service has on *Qwest's* toll and access service revenues.

Q. DOES MR. GREENE ACCURATELY DESCRIBE 1-800 CALLS?[19]

A. No. Mr. Greene claims that "Mr. Brotherson is wrong to suggest that Level 3 is providing 8XX functionality."[20] Mr. Greene mischaracterizes the similarities between VNXX and a 1-800 call flow and is incorrect is describing 1-800 calling

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17 The customer may also purchase facilities jointly from Qwest and another LEC.

18 *Robins Direct* at 13, lines 17-18.

19 *Greene Direct* at 24, lines 12-18.

20 *Greene Direct* at 24, lines 9-18.

functionality. 1-800 calling functionality is toll free from the originating customer's perspective so there is no expectation of paying toll charges by the originating customer. This is the same functionality that the Respondents are providing though VNXX. Likewise, 1-800 calls are routed to the terminating customer's IXC of choice and not the originating customer's IXC of choice. This too is the same functionality that the Respondents are providing by using VNXX. It is the terminating ISP that chooses the Respondents' services that route the ISP's customer's calls to the ISP without the imposition of a toll charge on the calling party. The only difference is that the Respondents assign a local number instead of an 800 number.

Mr. Greene's testimony demonstrates his misunderstanding of 1-800 service. He states that with VNXX "no per minute of use charges are imposed upon the Qwest end user, unlike a 1+ call to an IXC or 8XX service."[21] 1-800 service does not, as Mr. Greene states, impose charges upon the calling party—the charges are imposed on the terminating customer.

Q. IS A CALL THAT ROUTES FROM QWEST TO THE SAME IXC POI, REGARDLESS WHERE THE IXC 1-800 CUSTOMER IS LOCATED, THE SAME AS HOW LEVEL 3 DESCRIBES THE CALL FLOW OF A CALL TO LEVEL 3 USING VNXX?[22]

A. Yes. Mr. Greene is describing a call using VNXX where the Level 3 customer may be located anywhere in the United States or the world. The VNXX call flow that Mr. Greene has described is the same call flow that occurs when traffic is routed to

[21] *Greene Direct* at 24, lines 9-18 and 25, lines 1-15.

[22] *Greene Direct* at 16, line 15 through 17, line 2.

an IXC for delivery any where the IXC 1-800 customer is located.

Q. THE RESPONDENTS CLAIM THAT IF THE CALL CAN BE COMPLETED BY ROUTING THE CALL AS A LOCAL NUMBER THEN THE CALL SHOULD BE LOCAL.[23] DO YOU AGREE?

A. Absolutely not. In fact, this type of activity has also been defined by the industry as phantom traffic. If the Commission were to agree that the NXX determines whether a call is local or interexchange, the door would be opened for unscrupulous carriers to use this as a way to avoid intercarrier compensation at will.

Q. DO YOU HAVE AN EXAMPLE WHERE VNXX IS BEING USED TO FACILITATE TRADITIONAL (NON-1-800) LONG DISTANCE?

A. Yes. Level 3 apparently provides service to a company called Tel3.com.[24] It is my understanding that some if not all of the numbers advertised by Tel3.com are numbers that Level 3 obtains from NANPA—thus, there must be some arrangement whereby Level 3 has provided the numbers to Tel3.com. Tel3.com provides long distance under a prepaid arrangement with low per minute rates. Tel3.com generally offers two rates for minutes of use. One rate is offered with the use of a 1-800 number and another rate with the use of local access numbers that Tel3.com has somehow obtained from Level 3. The rate for the use of the 1-800 number is higher than the rate for the local access number.[25] The difference between the two call origination methods is that the originating carrier is compensated for

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[23] *Greene Direct* at 24, line 18 through 25, lines 1-2 and 25, lines 10-11; *Sumpter Response Testimony* at 14, lines 8-11, 16, lines 1-6, and 18, lines 4-6; *Blackmon Direct* at 13, lines 10-12; and the Respondents' use of the term "locally-dialed" calls.

[24] *See* Exhibit_PL-4. This exhibit represents that Level 3 numbers are used by Tel3.com to provide a local access number to access its long distance platform.

[25] *See* Exhibit_PL-5. This exhibit represents the offering that Tel3.com is making for a pre-subscription calling card long distance service.

originating access when the 1-800 number is used. Conversely, the originating carrier is not compensated when the Level 3 local number is used. Using both Mr. Greene's and Mr. Sumpter incorrect logic, the local numbers that are provided by Level 3 to Tel3.com somehow make the calls that are generated to these local numbers become local.[26] Exhibits PL-4 and PL-5 are from Tel3.com's website and describe the service offered.

Q. DOES THE SERVICE THAT IS PROVIDED TO TEL3.COM APPEAR TO BE ANY DIFFERENT THAN THE VNXX SERVICE THAT LEVEL 3 AND THE OTHER RESPONDENTS PROVIDE TO ISPS?

A. No. The service appears to be identical, except that in this case, the traffic is voice instead of ISP traffic. The traffic routes to the same switches that Level 3 appears to be using for routing traffic to its ISP customers.

Q. ARE OTHER RESPONDENTS ALSO PROVIDING VNXX SERVICE TO FACILITATE TRADITIONAL LONG DISTANCE SERVICE?

A. Yes. As I understand it Pac-West also appears to provide a similar service by offering local access numbers in the Seattle and Tacoma areas to Free Call Planet.[27] This service appears to differ from Tel3.com only in that it provides long distance service on a monthly basis.[28]

Q. DOES QWEST KNOWINGLY PROVIDE LOCAL ACCESS NUMBERS TO IXCS FOR THE ROUTING OF INTEREXCHANGE TRAFFIC?

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[26] It is interesting to note is that the same calls that originate using telephone numbers that have been somehow provided by Level 3 also appear to terminate to customers in Washington by routing to the terminating LEC using an interexchange carrier.

[27] Exhibit PL-6 and PL-7 provides a list of local access numbers and the process for allowing Free Call Planet customers to use local access numbers for long distance service.

[28] PL-8 is the Free Call Planet web page site that describes its long distance service.

A. Absolutely not. Qwest's local services are provided to customers specifically for the purpose of local service.

V. VNXX VIOLATES THE INDUSTRY'S NUMBERING RULES

Q. MR. ROBINS CLAIMS THAT THE COCAG IS NOT REALLY RULES BUT GUIDELINES[29]. DO YOU AGREE?

A. No. Although the COCAG is referred to as a guide, as I explained in my direct testimony, these Industry Numbering Committee ("INC") guidelines are really more than mere guidelines because the adherence to them is an FCC mandate.[30] The Alliance for Telecommunications Industry Solutions (ATIS) published the INC's COCAG at the direction of the FCC.[31]

Q. IF THE COCAG WAS CREATED AT THE DIRECTION OF THE FCC FOR THE ADMINISTRATION OF "NUMBERING PLAN AREA (NPA) CODES."[32] HOW ARE NPAS DEFINED?

A. As I explained in my direct testimony, there are two types of NPAs that are defined in the COCAG. They are geographic and non-geographic NPAs. "Geographic NPAs" are the "NPAs which correspond to discrete geographic areas within the NANP," while "Non-geographic NPAs" are "NPAs that do not correspond to discrete geographic areas, but which are instead assigned for services with attributes, functionalities, or requirements that transcend specific geographic boundaries, the common examples [of which] are NPAs in the N00 format, e.g.,

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29 *Robins Direct* at 17, lines 15-16.

30 47 C.F.R. § 52.13(d)

31 CENTRAL OFFICE CODE (NXX) ASSIGNMENT GUIDELINES (COCAG) FINAL DOCUMENT, reissued with the resolution of INC Issue 496, February 23, 2007, Footnote 1.

32 47CFR52.13(d)(1).

800."

Q. WHAT TYPES OF NUMBERS DO THE RESPONDENTS USE WHEN PROVIDING VNXX SERVICE?

A. The respondents use Geographic NPA-NXX telephone number codes to facilitate providing VNXX service.

Q. IS VNXX SERVICE PROVIDED CONSISTENT WITH THE DEFINITION OF GEOGRAPHIC NPAS?

A. No. As I explained in my direct testimony, VNXX is not limited to an offering outside the LCA or the LATA. CLEC VNXX customers (typically, though not necessarily are ISPs) may be located anywhere in the United States or even the world.

Q. IF VNXX SERVICE UTILIZES GEOGRAPHIC NUMBERS THAT DO NOT CORRESPOND TO DISCRETE GEOGRAPHIC AREAS AS DEFINED BY THE COCAG,[33] IS THE USE OF GEOGRAPHIC NPAS FOR VNXX CONSISTENT WITH THE COCAG?

A. No. As I have also illustrated in Exhibit PL-3, VNXX functions identically to 1-800 service. 1-800 service is clearly included in the definition of Non-geographic NPA's and VNXX provides identical functionality.

Q. MR. ROBINS QUOTES A PORTION OF THE COCAG'S PURPOSE AS WELL AS SEVERAL OF THE COCAG ASSUMPTIONS.[34] PLEASE RESPOND.

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[33] CENTRAL OFFICE CODE (NXX) ASSIGNMENT GUIDELINES (COCAG) FINAL DOCUMENT, reissued with the resolution of INC Issue 496, February 23, 2007, Section 13.0 Glossary.

[34] *Robins Direct* at 17, line 11 through 18, line18

A. Mr. Robins quotes the purpose of the COCAG, but that purpose supports Qwest's position regarding the requirements of number assignment (i.e., that assignment and routing of NXXs should be associated with a specific geographic location within a NPA). These geographic locations are called LCAs and the exception to this criterion is noted in section 2.14, as I have previously described in my direct testimony. Also the purpose of the COCAG further states that:

> While these guidelines were developed at the direction of the FCC,[35] they do not supersede controlling appropriate NANP Area governmental or regulatory principles, guidelines and requirements. These industry consensus guidelines are expected to apply throughout the NANP Area subject to guidelines and constraints of the NANP Area administrations unless the affected administrations direct otherwise.[36]

And the COCAG purpose furthers states:

> These guidelines apply only to the assignment of CO codes (NXX) ***within geographic numbering plan areas (NPAs)***. This does not preclude a future effort to address non-geographic NPAs in the same guidelines. (emphasis added)

Mr. Robins also cites as part of the COCAG assumptions the fact that the guidelines were prepared to be followed on a voluntary basis. As Mr. Robins does with nearly every other citation of the COCAG, he clearly has left out the remainder of the citation that references FCC rules.

Mr. Robins also cites that the COCAG assumptions allow for the greatest latitude in the provision of telecommunications service. However, the service that the

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[35] This effort has been undertaken at the direction of the Federal Communications Commission (FCC), in a letter to NANPA dated June 21, 1991, in an attempt to develop procedures that can be applied uniformly while using a finite numbering resource in the most efficient and effective manner possible and subsequently changed per FCC 00-104 and FCC 00-429.

[36] The Canadian Radio-television and Telecommunications Commission (CRTC) has approved the Canadian Central Office Code (NXX) Assignment Guidelines for the administration of Central Office Codes within Canadian Numbering Plan Areas (NPAs) by the Canadian Numbering Administrator (CNA). *See* www.cnac.ca.

Respondents are provisioning is an information service and not a telecommunications service. In addition, the service that is used to facilitate the information service is interexchange in nature. Thus, as is explained in the purpose of the COCAG described above, the COCAG does not "supersede controlling appropriate NANP Area ***governmental or regulatory principles, guidelines and requirements***." (emphasis added). It is clear that the COCAG acknowledges the regulatory structure that also applies to the businesses that operate as telecommunications providers. Thus to claim that a call should be local just because the number that was dialed is local, totally ignores the fundamental concepts that COCAG acknowledges.

Mr. Robins then points out that there are examples of exceptions that exist to requirement for the geographic assignment of telephone numbers that is a part of the COCAG assumptions. These examples are clearly limited to services that honor the LCA or Rate Center boundaries. As I explain below, the intent of this assumption was to maintain the integrity of LCA boundaries.

Finally, Mr. Robins cites COCAG language that refers to the assignment of numbering resources for use at a switching entity or point of interconnection. This cite merely acknowledges that switches are used to assign numbering resources for carriers to use in assigning numbers to their respective customers. The citations that Mr. Robins provides do not support his ultimate claim that COCAG supports VNXX.

Q. THE RESPONDENTS CLAIM THAT SECTION 2.14 OF THE COCAG

DOES NOT REQUIRE PHYSICAL PRESENCE REQUIREMENT.[37] DOES THE INTENT OF SECTION 2.14 REQUIRE A PHYSICAL PRESENCE?

A. Yes. As Mr. Robins explains in his testimony,[38] the addition of section 2.14 was accomplished through the introduction of Issue 333 in the Industry Numbering Committee (INC) in November of 2001. Exhibit PL-9 is the issue statement for Issue 333, which was what resulted in the addition of section 2.14 of the COCAG. It states:

> There is a basic assumption that both regulators and Service Providers have taken for granted that is missing in these guidelines. This assumption (2.14) deals with the understanding that ***numbers are assigned to an applicant (e.g. CLEC) located in a particular rate center should be assigned to subscribers who use those numbers in that rate center*** from a billing and routing perspective. (emphasis added)

Further, the issue statement states:

> Mainly, that the numbering resources are ***assigned and used in the rate center*** for which they were requested, and that they are ***not being used elsewhere in a SP's (service provider's) Network***. (emphasis added)

The result of this issue statement was the addition of section 2.14 and, although issue statements as well as proposed language may be modified through the discussion of the issue, only the proposed language was modified for addition to section 2.14. The intent of the language still remains that both the applicants and the subscribers are located in the rate center (with the exception of FX where the applicant is located in the rate center but the subscriber is not).

Q. MR. ROBINS CLAIMS THAT THE WORD "PHYSICALLY" WAS NOT

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[37] *Greene Direct* at 21, lines 1-20; *Robins Direct*, at 19; *Blackmon Direct* at 6-7.

[38] *Robins Direct* at 19, lines 4-22.

PART OF THE APPROVED LANGUAGE.[39] DOES THE REMOVAL OF THE WORD "PHYSICALLY" CHANGE THE INTENT OF SECTION 2.14?

A. No. As can be seen by the original unmodified issue statement PL-9, the intent remains unchanged. Further the removal of the word "physical" does nothing to detract from the intent of the language. Providing "service to a customers premise physically located in the same rate center" is of little difference than providing "service to customers premise located in the same rate center." In both scenarios, the customer premise is located ***in*** the same rate center. My understanding is that the word "premise" refers to a physical location. As the result of the removal of the word "physically" section 2.14 of the COCAG now reads:

> It is assumed from a wireline perspective that CO codes/blocks allocated to a wireline service provider are to be utilized to provide service to a ***customer's premise located in the same rate center*** that the CO codes/blocks are assigned. Exceptions exist, for example tariffed services such as foreign exchange service. (emphasis added)

Regardless of the removal of the word "physically" the intent and meaning of the language remains the same.

Q. THE RESPONDENTS' TESTIMONY SEEMS TO CONCLUDE THAT GEOGRAPHIC BOUNDARIES ARE INSIGNIFICANT OR IRRELEVANT TO THE ASSIGNMENT OF TELEPHONE NUMBERS.[40] DOES THE COCAG DISREGARD THE GEOGRAPHIC CLASSIFICATION OF TELEPHONE NUMBERS?

A. No. Although several witnesses attempt to deemphasize the geographic

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39 *Robins Direct* at 19, lines 20-22.

40 *Blackmon Direct* at 6-11; *Robins Direct* at 17-19; *Greene Direct* at 21, lines 1-20.

classification of telephone numbers, the COCAG fundamentally relies upon the geographic and non-geographic classification of telephone numbers. As I also explained in my direct testimony, the COCAG defines geographic telephone numbers and non-geographic telephone numbers. "Geographic NPAs" are the "NPAs which correspond to discrete geographic areas within the NANP," while "Non-geographic NPAs" are "NPAs that do not correspond to discrete geographic areas, but which are instead assigned for services with attributes, functionalities, or requirements that transcend specific geographic boundaries, the common examples [of which] are NPAs in the N00 format, e.g., 800."

VI. THE USE OF VNXX IS NOT AN EFFICIENT USE OF QWEST'S NETWORK

Q. DOES VNXX INCREASE NETWORK EFFICIENCIES?

A. It certainly does not from Qwest's perspective. It is easy to claim that the VNXX architecture creates network efficiencies when your network is the network where those efficiencies are realized. However, the LEC is forced to aggregate this traffic and sometimes deliver the traffic to a single point in the LATA. However, Qwest's customers who wish to obtain local service in an LCA must purchase a retail tariffed local service in order to obtain the aggregation of traffic from within the LCA. The retail rates that Qwest charges for its local service compensates Qwest for the network that aggregates traffic for the customer. The Respondents, on the other hand, propose to charge Qwest for what Qwest would normally be compensated (i.e. the network that aggregates traffic.) Further, the traffic that Qwest is aggregating for the respondents is not routed from the CLEC locally or to customers that are located within the LCA. These types of call would typically require originating access charges to be paid to Qwest.

Q. THE RESPONDENTS CLAIM THAT IT WOULD BE A LARGE FINANCIAL BURDEN TO PLACE SWITCHING EQUIPMENT IN EACH LCA AND THEN CLAIM THAT THE BURDEN TO TRANSPORT THE TRAFFIC THAT QWEST ORIGINATES?

A. Mr. Robins believes that ELI should not be burdened with building out its network to honor LCA boundaries[41] but then claims that Qwest burdens ELI because ELI is required to use more network facilities to transport traffic to Qwest.[42] Mr. Robins claims this even though the traffic that ELI sends to Qwest is dwarfed by the traffic that Qwest sends to ELI. (See Mr. Brotherson's confidential exhibit).

VII. VNXX IS ANTI-COMPETITIVE

Q. MR. GREENE CLAIMS THAT "BOTH A PRI AND DEOT/DTT TRUNKS PROVIDE A LOCAL PRESENCE IN THE LOCAL CALLING AREA." IS THIS TRUE?

A. No. Mr. Greene is attempting to liken an end user service with a carrier-to-carrier connection. If the Commission where to follow Mr. Greene's logic, then IXCs that also have DEOT/DTT trunking would also have a local presence. Thus, IXCs could arguably claim that traffic that would be routed over such trunks should be local. Although IXCs currently have DEOT/DTT with Qwest, this traffic is still appropriately routed and rated as interexchange traffic. Carrier switch-to-switch connections have never been defined as a presence for the purposes of call jurisdiction contrary to what both Level 3[43] and ELI[44] contend.

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41 *Robins Direct* at 4, line 23 and 5, lines 1-2.

42 *Robins Direct* at 11, lines 17-23 and 12, lines 1-3.

43 *Greene Direct* at 32, lines 7-8.

44 *Robins Direct* at 10, lines 15-19.

Q. MR. ROBINS CLAIMS THAT TECHNOLOGY DROVE THE PHYSICAL CONSTRAINTS UNDER WHICH QWEST CURRENTLY PROVIDES FX SERVICE.[45] IS THIS TRUE?

A. No. The fact that a LCA or rate center are made up of multiple switches does not support Mr. Robins claims that Qwest is forced to provide FX based on the physical constraints of Qwest's switches. As all Respondents must acknowledge, the Respondents' ability to create a centralized switching network does not allow them to provide higher quality services than Qwest's switching network can provide. Additionally, the fact that Qwest's switches have the capability to be used in a centralized configuration does not negate the fact that there are LCA boundaries that the network architecture must honor. To not require other carriers to also honor the LCA boundaries would effectually change a rule which Qwest has honored for years.[46]

VIII. INACCURATE STATEMENTS OF THE RESPONDENTS

Q. MR. GREENE CLAIMS "THAT LEVEL 3 ENVISIONS IP TECHNOLOGY BECOMING THE FOUNDATION FOR A WIDE VARIETY OF COMMUNICATIONS COMPANIES THAT SPECIALIZE IN AUDIO, VIDEO, AND COLLABORATIVE SERVICE FOR BOTH BUSINESSES AND CONSUMERS"[47] HOW IS LEVEL 3 ATTEMPTING TO ACCOMPLISH THIS GOAL?

A. Level 3 is using VNXX arrangements to obtain access to LEC customers for its ISP

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[45] *Robins Direct* at 16, lines 10-15.

[46] Qwest has gone through switch conversions and switch replacements and as such if the existing LCA boundaries were not in place Qwest would have had a choice to modify its switch deployment plan to be more consistent with a centralized switching architecture.

[47] *Greene Direct*, at 5, lines 3-5.

customers and establish an arrangement that allows Level 3 to both charge its end user ISP customers and charge the LECs for the traffic that is the result of its relationship with its end user ISP customers. It would be easy to achieve such goals when the LEC is inappropriately forced provide its network at no charge but actually is required to pay Level 3 and other Respondents for the traffic that Level 3's and other Respondents' ISP customers generate.

Q. MR. GREENE, MR. ROBINS, AND MR. SUMPTER[48] CONTEND THAT IF IT ESTABLISHES A POI OR "PICKS UP THE TRAFFIC" WITHIN THE LOCAL CALLING AREA THEN THE CALLS SHOULD BE LOCAL. IS THIS TRUE?[49]

A. No. Mr. Brotherson addressed this issue at length in his direct testimony at 32-37. Nothing these witnesses have said has caused Qwest to change its position on that issue. The POI has never been relied upon as a relevant location for determining call jurisdiction.

Q. ON PAGE 15 AND 16 OF HIS DIRECT TESTIMONY, MR. GREENE PROVIDES A DIAGRAM. PLEASE DESCRIBE PROBLEMS THAT YOU SEE WITH THE DIAGRAM.

A. There are several problems with Mr. Greene's diagram. First, the Qwest switch that is depicted does not appear to be a tandem switch as described in his testimony. This is illustrated by the "Qwest Circuit Switched Customers" that are served by the switch. Because only Qwest end office switches provide service to its retail customers, Mr. Greene's drawing does not accurately represent a Qwest tandem

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[48] *Robins Direct* at 13, lines 4-11.

[49] *Greene Direct* at 4, lines 1-4 and 14, lines 17-24; *Robins Direct* at 10, 16-18; *Sumpter Response* at 21, lines 6-14.

switch. Secondly, Mr. Greene explains that Level 3 provides service from a "network end point"; however, there is no device depicted that provides the intelligence to provide service. For example, a MUX does not provide voice service or Internet connectivity. An intelligent device like a circuit switch or a soft switch is what provides the intelligence for provisioning of services. The private line service is merely transport and the diagram does not appear to depict if there is any intelligent service that Level 3 is providing. If it does employ equipment that provides such intelligence, Mr. Greene has not depicted it in this diagram. Further, Level 3 depicts its customers physically located within the LCA who that are not actually located in the LCA (i.e., VNXX customers).

Q. DOES MR. GREENE ACCURATELY PROVIDE A DESCRIPTION OF THE SERVICE THAT LEVEL 3 PROVIDES?

A. No. Mr. Greene says that ISPs are "assigned local numbers from the Level 3 switch ***in the exchanges*** where the dial-up service is being offered and where Level 3 offers service". (emphasis added) However, the fundamental nature of VNXX is that neither the CLEC nor the CLEC's customer is located in the LCA where the service is purportedly being provided. Secondly, Mr. Greene's list of the components of Level 3's (3)Connect® misstates what Level 3's service actually provides. First, Level 3's Direct Inward Dialing (DID) Service in the LCA does not actually provide the DID service from within every LCA as described in Mr. Greene's testimony.[50] Secondly, Level 3 does not always provide the transport to its network from each LCA.

Q. DOES MR. GREENE ACCURATELY COMPARE LEVEL 3'S NETWORK

[50] *Greene Direct* at 30, line 4.

WITH QWEST'S NETWORK?

A. No. Level 3 attempts to compare its CLEC network with a QC affiliate's ISP network. The comparison between a CLEC network and an ISP network is irrelevant. This complaint is about the Respondents' inappropriate use of VNXX and the routing of such traffic between Qwest the ILEC and the CLEC Respondents.

IX. CONCLUSION

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

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