

[Service Date March 30, 2012]

March 30, 2012

**NOTICE OF PREHEARING CONFERENCE**  
**(Set For Tuesday, May 1, 2012, beginning at 9:30 a.m.)**  
**AND**  
**REQUEST FOR STATEMENT OF ISSUES**  
**(Due Monday, April 23, 2012, by 5:00 p.m.)**

RE: *Pac West Telecomm, Inc. v. Qwest Corporation,*  
Docket UT-053036 (*consolidated*)

*Level 3 Communications, LLC v. Qwest Corporation,*  
Docket UT-053039 (*consolidated*)

TO ALL PARTIES:

The Washington Utilities and Transportation Commission (Commission) finds it appropriate to hold a prehearing conference on May 1, 2012, beginning at 9:30 a.m. in the above consolidated matters to discuss the remaining contested issues in these consolidated proceedings, schedule deadlines for filing testimony and evidence, evidentiary hearings and settlement discussions. The Commission also requests that the parties submit a joint statement of contested issues and a proposed schedule prior to the prehearing conference. If the parties cannot agree on either a statement of issues or schedule, they must file these documents separately.

**Background.** On February 10, 2012, the Commission entered Order 12 in these cases, denying the motions for summary determination filed by Pac-West Telecomm, Inc. (Pac-West), and Level 3 Communications, LLC (Level 3), and granting in part and denying in part Qwest Corporation's (Qwest) motion. On February 10, 2012, the Commission denied Pac-West and Level 3's joint petition for reconsideration of Order 12.

In Order 12, the Commission interpreted how the parties' interconnection agreements apply to determine compensation due for virtual NXX, or VNXX ISP-bound traffic. The Commission denied Qwest's request to determine compensation due under the parties' interconnection agreements, finding that due to:

[T]he parties' disputes about the amount and type of traffic at issue, it is necessary to develop a full evidentiary record as to the exact location of the CLECs' ISP modems, at the time of the traffic in question in this proceeding, in order to determine which traffic is subject to our jurisdiction and should be subject to toll rates. If no party seeks an appeal of this decision, or upon a decision on appeal, we will initiate an evidentiary proceeding to address the issue of compensation.

As no party has sought review of Orders 12 or 13 in federal district court, it is now appropriate to schedule a prehearing conference to schedule evidentiary hearings to resolve the remaining disputed issues.

**Pending Petition.** On March 12, Qwest filed with the Commission a petition to enforce Orders 12 and 13, requesting the Commission direct Pac-West and Level 3 to refund all monies Qwest paid to the companies for VNXX traffic after the Commission's 2006 final orders in these proceedings. Pac-West and Level 3 filed answers on March 19, arguing that the Commission cannot begin to calculate the proper refund amount without the evidentiary hearings identified in Order 12. Both Pac-West and Level 3 identify specific facts and evidence that must be developed before the Commission can resolve the compensation due any party.

**Contested Issues and Procedural Schedule.** To assist the Commission in resolving Qwest's petition and prepare for the scheduled prehearing conference, the Commission requests that the parties confer and jointly submit in advance of the conference a list of the remaining contested issues in this proceeding. Similarly, the Commission requests that the parties jointly prepare a proposed schedule for resolving the remaining issues in these proceedings. To the extent the parties cannot agree, the parties must file separate statements of issues and proposed schedules.

**NOTICE IS GIVEN That a prehearing conference in this matter will be held on Tuesday, May 1, 2012, beginning at 9:30 a.m., in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**

**NOTICE IS FURTHER GIVEN That the parties must file with the Commission by the close of business on Monday, April 23, 2012, a joint statement of the remaining disputed issues, as well as a joint proposal for a procedural schedule in this proceeding. If the parties cannot agree on a joint statement or schedule, the parties must file separate statements or schedules on that date.**

Sincerely,

ANN E. RENDAHL  
Director, Policy and Legislation