**BEFORE THE WASHINGTON STATE**

**UTILITIES AND TRANSPORTATION COMMISSION**

 )

PAC-WEST TELECOMM, INC., ) DOCKET UT-053036

 )

Petitioner, )

 )

 v. )

 )

QWEST CORPORATION, )

 )

 Respondent. )

 )

 )

LEVEL 3 COMMUNICATIONS, LLC, ) DOCKET UT-053039

 )

 Petitioner, )

 )

 v. )

 )

QWEST CORPORATION, )

 )

 Respondent. )

**MOTION FOR SUMMARY DETERMINATION OF LEVEL 3 COMMUNICATIONS, LLC AND PAC-WEST TELECOMM, INC.**

*1.* Level 3 Communications, LLC (“Level 3”) and Pac-West Telecomm, Inc. (“Pac-West”) hereby move for summary determination, pursuant to the Prehearing Conference Notice in this proceeding and WAC 480-07-382(2), on the issues presented below as there are no genuine issues as to any material fact.

*2.* Level 3 and Pac-West respectfully request that the Commission grant any or all of the following relief:

A. Dismiss this proceeding in its entirety for lack of subject matter jurisdiction;

B. Rule that Qwest Corporation (“Qwest”) is not, under the terms of its own access tariffs, entitled to collect access charges from Level 3 and Pac-West on VNXX ISP-bound traffic;

C. Rule that Level 3 and Pac-West are not estopped from challenging the jurisdiction of the Commission in this matter;

D. Rule that any claim by Qwest for access charges would be subject to Washington’s two-year statute of limitations and would not relate back to Qwest’s original counterclaims in this proceeding; and

E. Grant to Level 3 and Pac-West such other, further and different relief as to the Commission appears just and proper in the premises.

Respectfully submitted,

 //Lisa Rackner//

Lisa F. Rackner Arthur A. Butler

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*Counsel for Level 3 Communications, LLC*

June 1, 2012

**CERTIFICATE OF SERVICE**

 I hereby certify that I have this 1st day of June, 2012, served the true and correct original, along with the correct number of copies, of the **Motion for Summary Determination of Level 3 Communications, LLC and Pac-West Telecomm, Inc.,** the **Memorandum of Law in Support of Level 3’s and Pac-West’s Motion for Summary Determination**, and **Level 3’s and Pac-West’s Documentary Appendix to Motion for Summary Determination** upon the WUTC, via the method(s) noted below, properly addressed as follows:

|  |  |
| --- | --- |
| David DannerExecutive Director and SecretaryWashington Utilities and Transportation Commission1300 S Evergreen Park Drive SWPO Box 47250Olympia, WA 98504-7250 | \_\_\_ Hand Delivered\_\_\_ U.S. Mail (first-class, postage prepaid)\_X\_ Overnight Mail (UPS)\_\_\_ Facsimile \_\_\_\_\_\_\_\_\_\_\_\_X\_ Email (records@wutc.wa.gov) |

 I hereby certify that I have this 1st day of June, 2012, served the true and correct original, along with the correct number of copies, of the **Motion for Summary Determination of Level 3 Communications, LLC and Pac-West Telecomm, Inc.,** the **Memorandum of Law in Support of Level 3’s and Pac-West’s Motion for Summary Determination**, and **Level 3’s and Pac-West’s Documentary Appendix to Motion for Summary Determination** upon the WUTC, via the method(s) noted below, properly addressed as follows:

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| **On Behalf of CenturyLink** |  |
| Lisa A. Anderl, Associate General CounselCenturyLink1600 7th Avenue, Room 1506Seattle, WA 98191  | \_\_\_ Hand Delivered\_X\_ U.S. Mail (first-class, postage prepaid)\_\_\_ Overnight Mail (UPS)\_\_\_ Facsimile \_\_\_\_\_\_\_\_\_\_\_\_X\_ Email (lisa.anderl@centurylink.com) |
| Thomas DethlefsCenturyLink1801 California St. – 10th Fl.Denver, CO 80202 | \_\_\_ Hand Delivered\_X\_ U.S. Mail (first-class, postage prepaid)\_\_\_ Overnight Mail (UPS)\_\_\_ Facsimile \_\_\_\_\_\_\_\_\_\_\_\_X\_ Email (Thomas.dethlefs@centurylink.com) |
| Adam SherrCenturyLink1600 7th Avenue, Room 3206Seattle, WA 98191  | \_\_\_ Hand Delivered\_\_\_ U.S. Mail (first-class, postage prepaid)\_\_\_ Overnight Mail (UPS)\_\_\_ Facsimile \_\_\_\_\_\_\_\_\_\_\_\_X\_ Email (adam.sherr@centurylink.com) |
| Ted D. SmithStoel Rives LLPSuite 1100201 South Main StreetSalt Lake City UT 84111-4904 | \_\_\_\_ Hand Delivered\_\_\_ U.S. Mail (first-class, postage prepaid)\_\_\_ Overnight Mail (UPS)\_\_\_ Facsimile \_\_\_\_\_\_\_\_\_\_\_X\_ Email (tsmith@stoel.com) |
| Mark ReynoldsQwest Corporation1600 7th Avenue, Room 3206Seattle, WA 98191 | \_\_\_ Hand Delivered\_ \_ U.S. Mail (first-class, postage prepaid)\_\_\_ Overnight Mail (UPS)\_\_\_ Facsimile \_\_\_\_\_\_\_\_\_\_\_\_X\_ Email (mark.reynolds3@qwest.com) |
| **On Behalf of Pac-West** |  |
| Arthur A. ButlerAter Wynne LLP601 Union Street, Suite 1501Seattle, WA 98101-3980 | \_\_\_ Hand Delivered\_X\_ U.S. Mail (first-class, postage prepaid)\_\_\_ Overnight Mail (UPS)\_\_\_ Facsimile \_\_\_\_\_\_\_\_\_\_\_\_X\_ Email (aab@aterwynne.com) |
| Sam ShiffmanPac-West Telecomm, Inc.6500 River Place Blvd.,Building 2, Suite 200Austin, TX 78730 | \_ \_ Hand Delivered\_X\_ U.S. Mail (first-class, postage prepaid)\_\_\_ Overnight Mail (UPS)\_\_\_ Facsimile \_\_\_\_\_\_\_\_\_\_\_\_X\_ Email (regulatory@pacwest.com) |

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| **On Behalf Of Public Counsel:**Simon J. ffitchAttorney General of WashingtonPublic Counsel SectionSuite 2000800 Fifth AvenueSeattle WA 98104-3188 |  | Hand Delivered |
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| ***On Behalf Of Staff:***Sally BrownAttorney General of WashingtonPO Box 401281300 Evergreen Park Drive S.Olympia WA 98504 |  | Hand Delivered |
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| --- | --- |
| ***Courtesy Copy***:  |  |
| Ann Rendahl Washington Utilities and Transportation Commission1300 S Evergreen Park Drive SWPO Box 47250Olympia, WA 98504-7250 | \_\_\_ Hand Delivered\_\_\_ U.S. Mail (first-class, postage prepaid)\_\_\_ Overnight Mail (UPS)\_\_\_ Facsimile \_\_\_\_\_\_\_\_\_\_\_\_X\_ Email (arendahl@wutc.wa.gov) |
| Marty LovingerWashington Utilities and Transportation Commission1300 S Evergreen Park Drive SWPO Box 47250Olympia, WA 98504-7250 | \_\_\_ Hand Delivered\_\_\_ U.S. Mail (first-class, postage prepaid)\_\_\_ Overnight Mail (UPS)\_\_\_ Facsimile \_\_\_\_\_\_\_\_\_\_\_\_X\_ Email (Mlovinge@wutc.wa.gov) |

 I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

 Dated this 1st day of June, 2012, at Portland, Oregon.

 \_//Lisa Rackner//\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Lisa Rackner