

**BEFORE THE WASHINGTON STATE
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**

DOCKET NO. UT-063006

**DIRECT TESTIMONY
OF WILLIAM R. EASTON
QWEST CORPORATION**

MAY 30, 2006

(Disputed Issue Nos. 1, 2, 5, 13, 17, 18, 21 and 22)

TABLE OF CONTENTS

I.	EXECUTIVE SUMMARY	1
II.	IDENTIFICATION OF WITNESS.....	2
III.	PURPOSE OF TESTIMONY	4
IV.	DISPUTED ISSUE NO. 1: COSTS OF INTERCONNECTION.....	4
V.	DISPUTED ISSUE NO. 2 (A-B): COMBINING TRAFFIC ON INTERCONNECTION TRUNKS.....	24
VI.	DISPUTED ISSUE NO. 5: SHOULD INTERCONNECTION TERMS BE INCORPORATED BY REFERENCE	32
VII.	DISPUTED ISSUE NO. 13: LOCAL INTERCONNECTION SERVICE DEFINITION	33
VIII.	DISPUTED ISSUE NO. 17: TRUNK FORECASTING.....	34
IX.	DISPUTED ISSUE NO. 18: JURISDICTIONAL ALLOCATION FACTORS	39
X.	DISPUTED ISSUE NO. 21: ORDERING OF INTERCONNECTION TRUNKS.....	43
XI.	DISPUTED ISSUE NO. 22: COMPENSATION FOR SPECIAL CONSTRUCTION.....	44
XII.	CONCLUSION	45

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2
3
4
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I. EXECUTIVE SUMMARY

Despite the long list of issues, subparts and dueling language discussed in this testimony, ultimately everything can be boiled down to just two issues: 1) Compensation for interconnection services provided by Qwest and; 2) the types of traffic that may be combined on interconnection trunks.

The law is very clear when it comes to compensation for the interconnection services Qwest provides. Under the Telecommunications Act of 1996, Qwest has a duty to provide interconnection with its local exchange network “on rates, terms and conditions that are just, reasonable, and nondiscriminatory” and in accordance with the requirements of Section 252 of the Act.¹ Section 252 of the Act in turn provides that determinations by a state commission of the just and reasonable rate for the interconnection shall be “based on the cost...of providing the interconnection,” “nondiscriminatory” and “may include a reasonable profit.”²

Despite the law, and despite the fact that Level 3 is ordering interconnection services so that it can serve its customers, Level 3 boldly claims that it has no obligation to compensate Qwest for these services. This assertion is unreasonable and should be soundly rejected by this Commission.

¹ 47 U.S.C. §251(c)(2)(D).

² 47 U.S.C. §252(d)(1)

1 As to the types of traffic that can be carried on interconnection trunk groups, Qwest
2 has attempted to be responsive to Level 3's desire to combine traffic on trunk
3 groups. Qwest is willing to allow all traffic types, with the exception of switched
4 access traffic, to be carried over LIS trunks. However, because of billing and
5 systems issues, Qwest requires that switched access traffic be carried over Feature
6 Group interconnection trunks. Nonetheless, Qwest has attempted to accommodate
7 Level 3's desire for network efficiencies by agreeing to let Level 3 combine all of
8 its traffic over Feature Group D interconnection trunks. This solution achieves the
9 efficiencies sought by Level 3 while at the same time allowing Qwest to continue to
10 use its existing billing systems and processes. For these reasons, Level 3's
11 proposed combining of traffic on LIS trunks should be rejected.

12

13 **II. IDENTIFICATION OF WITNESS**

14 **Q. PLEASE STATE YOUR NAME, OCCUPATION AND BUSINESS**
15 **ADDRESS.**

16 A. My name is William R. Easton. My business address is 1600 7th Avenue, Seattle
17 Washington. I am employed as Director – Wholesale Advocacy. I am testifying on
18 behalf of Qwest Corporation ("Qwest").

19

20 **Q. PLEASE GIVE A BRIEF DESCRIPTION OF YOUR EDUCATIONAL**
21 **BACKGROUND AND TELEPHONE COMPANY EXPERIENCE.**

1 A. I graduated from Stanford University in 1975, earning a Bachelor of Arts degree.
2 In 1980, I received a Masters of Business Administration from the University of
3 Washington. In addition, I am a Certified Management Accountant.

4
5 I began working for Pacific Northwest Bell in 1980, and have held a series of jobs
6 in financial management with U S WEST, and now with Qwest, including staff
7 positions in the Treasury and Network organizations. From 1996 through 1998, I
8 was Director – Capital Recovery. In this role I negotiated depreciation rates with
9 state commission and FCC staffs and testified in various regulatory proceedings.
10 From 1998 until 2001 I was a Director of Wholesale Finance, responsible for the
11 management of Wholesale revenue streams from a financial perspective. In this
12 capacity I worked closely with the Product Management organization on their
13 product offerings and projections of revenue. In October of 2001 I moved from
14 Wholesale Finance to the Wholesale Advocacy group, where I am currently
15 responsible for advocacy related to Wholesale products and services. In this role I
16 work extensively with the Product Management, Network and Costing
17 organizations.

18
19 **Q. HAVE YOU TESTIFIED PREVIOUSLY IN WASHINGTON?**

20 A. Yes I have. I testified in Docket Numbers UT-940641, UT-950200, UT-951425,
21 UT-960347, UT-003013 (Part D), UT-033035, UT-033044 and UT-043045.

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III. PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to explain Qwest’s positions, and the regulatory policies underlying those positions, as they relate to certain disputed issues between the parties. My testimony will show that the Qwest position on these issues seeks to strike a balance between meeting the interconnection needs of Level 3, while at the same time ensuring that the services, terms and conditions in the agreement comply with the governing law. Specifically, my testimony will address the following issues from the Matrix of Unresolved Issues filed by Level 3 in this arbitration:

- Issue 1: Costs of Interconnection
- Issue 2: Combining Traffic on Interconnection Trunks
- Issue 5: Should Interconnection Terms be Incorporated by Reference
- Issue 13: Local Interconnection Service Definition
- Issue 17: Trunk Forecasting
- Issue 18: Jurisdictional Allocation Factors
- Issue 21: Ordering of Interconnection Trunks
- Issue 22: Compensation for Construction

IV. DISPUTED ISSUE NO. 1: COSTS OF INTERCONNECTION

Q. PLEASE EXPLAIN DISPUTED ISSUE NO. 1.

1 A. Issue No. 1 is comprised of 10 subparts (1A-1J), all of which have to do with local
2 interconnection. Although Level 3 characterizes this issue as being a question of
3 whether Level 3 may exchange traffic at a single point of interconnection in the
4 LATA, this issue is actually about compensation for the use of Qwest's network. In
5 this case, Level 3 has requested interconnection at a single point in each LATA.
6 There is presently no dispute as to where the interconnection occurs or how many
7 points of interconnection there will be. What is in dispute is who bears the costs of
8 the interconnection Level 3 has requested. Qwest contends that Level 3 is
9 responsible for compensating Qwest for the interconnection costs that Qwest incurs
10 to honor Level 3's request. Contrary to Level 3's claims, this is true even when
11 costs are incurred on Qwest's side of the point of interconnection.

12
13 Under the Telecommunications Act of 1996, Qwest has a duty to provide
14 interconnection with its local exchange network "on rates, terms and conditions that
15 are just, reasonable, and nondiscriminatory" and in accordance with the
16 requirements of Section 252 of the Act.³ Section 252 of the Act in turn provides
17 that determinations by a state commission of the just and reasonable rate for the
18 interconnection shall be "based on the cost...of providing the interconnection,"
19 "nondiscriminatory" and "may include a reasonable profit."⁴ As the FCC has

³ 47 U.S.C. §251(c)(2)(D).

⁴ 47 U.S.C. §252(d)(1)

1 recognized, these provisions make clear that CLECs must compensate incumbent
2 LECs for the costs incumbent LECs incur to provide interconnection.⁵

3
4 Qwest has fulfilled its duty to provide interconnection by developing Local
5 Interconnection Service (LIS) for CLECs to interconnect with Qwest. LIS has
6 multiple intercarrier transport options. One option, the Mid-Span Meet POI option,
7 allows the CLEC to build to a mid-way point between the CLEC's POI/switch and
8 a Qwest tandem or end office switch. Another option is collocation, which allows a
9 CLEC to put equipment in one of Qwest's serving wire centers and interconnect at
10 that collocation. Both of these options put some cost of establishing the point of
11 interconnection on the CLEC. Qwest also provides an entrance facility option for
12 purchase for those CLECs who do not want to incur capital expense by either laying
13 fiber for a mid-span meet POI or setting up a collocation. An entrance facility
14 creates transport between a CLEC building and the nearest Qwest building termed a
15 Serving Wire Center ("SWC"). In addition to interconnecting with Qwest at the
16 SWC, the CLEC will need to have Direct Trunk Transport ("DTT") to complete
17 calls throughout the Qwest network. The CLEC may also need to order
18 multiplexing. There are multiple costs associated with Qwest providing entrance
19 facility, DTT and multiplexing. These costs have been identified and discussed in
20 cost dockets with the Commission. As stated earlier, Qwest is allowed to recover

⁵ See *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, ¶200, 11 FCC Rec. 15499 (August 8, 1996), *aff'd in part and rev'd in part, Iowa Utils. Bd. v. FCC*, 525 U.S. 1133 (1999)(the "Local Competition Order").

1 costs that are just and reasonable and based on the cost of providing
2 interconnection.

3
4 It makes sense that the cost causer compensates Qwest for interconnection and
5 transport costs. If the cost causer (Level 3) does not pay, then Qwest end users
6 would have to unfairly bear the cost, including customers who have no interest in
7 surfing the internet via dial-up service. Qwest's end users should not have to bear
8 the burden of paying for Level 3's ISP service.

9
10 With this as background, the next sections of my testimony will discuss each of the
11 disputed sub-issues (1A-1J).

12

13 **Issue No. 1A**

14 **Q. PLEASE DESCRIBE ISSUE NO. 1A.**

15 A. Issue 1A involves disputed language which Level 3 characterizes as having to do
16 with the right to interconnect at a single point in the LATA and obligations on the
17 respective sides of the point of interconnection. The real issue here is that Level 3
18 does not want to pay for the use of Qwest's network.

19

20 **Q. WHAT IS THE LANGUAGE IN DISPUTE?**

21 A. The parties disagree about the language for Section 7.1.1 of the agreement. Exhibit
22 A of Qwest's Response to the Petition for Arbitration contains the interconnection

1 agreement language proposed by Qwest juxtaposed against the language proposed
2 by Level 3. Qwest proposes the following language for Section 7.1.1:

3 7.1.1 This Section describes the Interconnection of Qwest's network and
4 CLEC's network for the purpose of exchanging Exchange Service (EAS/Local
5 traffic), IntraLATA Toll carried solely by local exchange carriers and not by
6 an IXC (IntraLATA LEC toll), ISP-Bound traffic, and Jointly Provided
7 Switched Access (InterLATA and IntraLATA) traffic. Qwest will provide
8 Interconnection at any Technically Feasible point within its network.
9 Interconnection, which Qwest currently names "Local Interconnection
10 Service" (LIS), is provided for the purpose of connecting End Office Switches
11 to End Office Switches or End Office Switches to local or Access Tandem
12 Switches for the exchange of Exchange Service (EAS/Local traffic); or End
13 Office Switches to Access Tandem Switches for the exchange of IntraLATA
14 LEC Toll or Jointly Provided Switched Access traffic. Qwest Tandem
15 Switch to CLEC Tandem Switch connections will be provided where
16 Technically Feasible. New or continued Qwest local Tandem Switch to
17 Qwest Access Tandem Switch and Qwest Access Tandem Switch to Qwest
18 Access Tandem Switch connections are not required where Qwest can
19 demonstrate that such connections present a risk of Switch exhaust and that
20 Qwest does not make similar use of its network to transport the local calls of
21 its own or any Affiliate's End User Customers.
22

23 **Q. WHAT LANGUAGE DOES LEVEL 3 PROPOSE?**

24 A. Level 3 proposes the following:

25 7.1.1 This Section describes the Interconnection of Qwest's network and
26 CLEC's network for the purpose of exchanging **Telecommunications**
27 **Including Telephone Exchange Service And Exchange Access** traffic. Qwest
28 will provide Interconnection at any Technically Feasible point within its
29 network.
30

31 7.1.1.1 **Establishment of SPOI:** Qwest agrees to provide CLEC a Single
32 Point of Interconnection (SPOI) in each Local Access Transport Area (LATA)
33 for the exchange of all telecommunications traffic. The SPOI may be
34 established at any mutually agreeable location within the LATA, or, at Level
35 3's sole option, at any technically feasible point on Qwest's network.
36 Technically feasible points include but are not limited to Qwest's end offices,
37 access tandem, and local tandem offices.
38

1 7.1.1.2 **Cost Responsibility.** Each Party is responsible for constructing,
2 maintaining, and operating all facilities on its side of the SPOI, subject only to
3 the payment of intercarrier compensation in accordance with Applicable Law.
4 In accordance with FCC Rule 51.703(b), neither Party may assess any charges
5 on the other Party for the origination of any telecommunications delivered to
6 the other Party at the SPOI, except for Telephone Toll Service traffic
7 outbound from one Party to the other when the other Party is acting in the
8 capacity of a provider of Telephone Toll Service, to which originating access
9 charges properly apply.

10
11 7.1.1.3 Facilities included/transmission rates. Each SPOI to be established
12 under the terms of this Attachment shall be deemed to include any and all
13 facilities necessary for the exchange of traffic between Qwest's and Level 3's
14 respective networks within a LATA. Each Party may use an Entrance Facility
15 (EF), Expanded Interconnect Channel Termination (EICT), or Mid Span Meet
16 Point of Interconnection (POI) and/or Direct Trunked Transport (DTT) at
17 DS1, DS3 , OC3 or higher transmission rates as, in that Party's reasonable
18 judgment, is appropriate in light of the actual and anticipated volume of traffic
19 to be exchanged. If one Party seeks to establish a higher transmission rate
20 facility than the other Party would establish, the other Party shall nonetheless
21 reasonably accommodate the Party's decision to use higher transmission rate
22 facilities.

23
24 7.1.1.4 Each Party Shall Charge Reciprocal Compensation for the
25 Termination of Traffic to be carried. All telecommunications of all types shall
26 be exchanged between the Parties by means of from the physical facilities
27 established at Single Point of Interconnection Per LATA onto its Network
28 Consistent With Section 51.703 of the FCC's Rules:

29
30 7.1.1.4.1 Level 3 may interconnect with Qwest at any technically feasible
31 point on Qwest's network for the exchange of telecommunications traffic.
32 Such technically feasible points include but are not limited to Qwest access
33 tandems or Qwest local tandems. When CLEC is interconnected at the SPOI.
34 Separate trunk groups for separate types of traffic may be established in
35 accordance with the terms hereof. No separate physical interconnection
36 facilities, as opposed to separate trunk groups within SPOI facilities, shall be
37 established except upon express mutual agreement of the Parties.
38

39
40 **Q. WHY IS QWEST OPPOSED TO THE LEVEL 3 LANGUAGE?**

1 A. Mr. Linse's testimony discusses why Qwest opposes Level 3's SPOI language and
2 details the options available to Level 3 to interconnect with Qwest. As far as the
3 remaining language is concerned, Level 3's Cost Responsibility language appears
4 to be misplaced in Section 7.1 of the agreement which addresses interconnection
5 facility options, not compensation. Qwest's proposals for compensation, including
6 reciprocal compensation, appear elsewhere in the interconnection agreement and
7 will be fully discussed as disputed issues later in this testimony.

8

9 **Q. LEVEL 3 ALSO OBJECTS TO QWEST'S LANGUAGE FOR SECTION**
10 **7.1.1.1 AND SECTION 7.1.1.2. ARE THESE SECTIONS RELATED TO**
11 **THE ISSUES YOU HAVE JUST DISCUSSED?**

12 A. No. These two sections have to do with VoIP traffic and are discussed in the
13 testimony of Mr. Brotherson.

14

15 **Issue No. 1B**

16 **Q. PLEASE DESCRIBE ISSUE NO. 1B.**

17 A. Issue 1B concerns the methods by which the parties facilitate interconnection
18 between their respective networks. This issue is addressed in the testimony of Mr.
19 Linse.

20

21 **Issue No. 1C**

22 **Q. PLEASE DESCRIBE ISSUE NO. 1C.**

1 A. Issue 1C concerns section 7.2.2.1.1 of the agreement, which describes how
2 Exchange Service traffic will be terminated. Both Qwest and Level 3 agree that
3 Exchange Service (EAS/Local) traffic will be terminated as Local Interconnection
4 Service (LIS), but Qwest disagrees with the additional language that Level 3 has
5 added to this section.

6

7 **Q. WHAT LANGUAGE IS LEVEL 3 PROPOSING TO ADD?**

8 A. After the agreed upon description of Exchange Service traffic termination, Level 3
9 proposes to insert the following language:

10 Notwithstanding references to LIS and to trunking and facilities used or
11 provisioned in association with LIS, nothing in this Agreement shall be
12 construed to require CLEC to pay Qwest for any services or facilities on
13 Qwest's side of the POI in connection with the origination of traffic from
14 Qwest to CLEC; and nothing herein shall be construed to require CLEC to
15 pay for any services or facilities on Qwest's side of the POI in connection with
16 the termination of traffic from CLEC by Qwest, other than reciprocal
17 compensation payments as provided in Section ___ hereof.

18

19 **Q. WHY DOES QWEST OBJECT TO THIS LANGUAGE?**

20 A. Qwest objects to the inserted language because it deals with compensation, a
21 subject which is more appropriately addressed in section 7.3 of the agreement. In
22 fact, Level 3 attempts to insert similar language at multiple places in the
23 interconnection agreement. Level 3's persistence does nothing to change its
24 obligations under the law. As I stated in my preface to Issue No. 1, the Act clearly

1 allows for Qwest to receive compensation for providing interconnection to CLECs.
2 Level 3's proposed language negates this obligation and should be rejected.

3

4 **Issue No. 1D**

5 **Q. PLEASE EXPLAIN ISSUE NO. 1D.**

6 A. Issue No. 1D has to do with transport services to deliver Exchange Service
7 EAS/Local traffic from the POI to the terminating party's end office switch or
8 tandem switch for call termination.

9

10 **Q. WHAT LANGUAGE IS QWEST PROPOSING FOR THIS SECTION?**

11 A. Qwest proposes the following language:

12 7.2.2.1.2.2 CLEC may purchase transport services from Qwest or from a
13 third party, including a third party that has leased the private line transport
14 service facility from Qwest. Such transport provides a transmission path for
15 the LIS trunk to deliver the originating Party's Exchange Service EAS/Local
16 traffic to the terminating Party's End Office Switch or Tandem Switch for call
17 termination. Transport may be purchased from Qwest as Tandem Switch
18 routed (i.e., tandem switching, tandem transmission and direct trunked
19 transport) or direct routed (i.e., direct trunked transport). This Section is not
20 intended to alter either Party's obligation under Section 251(a) of the Act.

21

22 **Q. WHAT LANGUAGE DOES LEVEL 3 PROPOSE?**

23 A. Level 3 proposes the following language:

24 7.2.2.1.2.2. CLEC may order transport services from Qwest or from a third-
25 party, including a third party that has leased the private line transport service
26 facility from Qwest for purposes of network management and routing of
27 traffic to/from the POI. Such transport provides a transmission path for the
28 LIS trunk to deliver the originating Party's Exchange Service EAS/Local

1 traffic to the terminating Party's End Office Switch or Tandem Switch for call
2 termination. This Section is not intended to alter either Party's obligation
3 under Section 251(a) of the Act or under Section 51.703 or 51.709 of the
4 FCC's Rules.

5

6 **Q. WHAT IS THE DIFFERENCE BETWEEN THE TWO PROPOSALS?**

7 A. Level 3 changes the word "purchase" to "order" in the first sentence and adds the
8 words which have been underlined at the end of the sentence. Level 3 also strikes
9 the second to last sentence in Qwest's language which begins, "Tandem transport
10 may be purchased from Qwest..." Level 3 apparently believes that removing the
11 word "purchase" somehow relieves it of the obligation to compensate Qwest for the
12 use of the Qwest network. Level 3 acknowledges this transport is necessary, as it
13 has not objected to the sentence which states, "Such transport provides a
14 transmission path for the LIS trunk to deliver the originating Party's Exchange
15 Service EAS/Local traffic to the terminating Party's End Office Switch or Tandem
16 Switch for call termination." It has even acknowledged that it needs to order
17 transport services. What Level 3 refuses to acknowledge is that it has an obligation
18 to compensate Qwest for providing the services which allow Level 3 to serve its
19 ISP end users. Compensation issues will be addressed more fully later in the
20 testimony.

21

22 **Issue No. 1E**

23 **Q. PLEASE EXPLAIN ISSUE 1E.**

1 A. Issue 1E concerns section 7.2.2.1.4 of the interconnection agreement which
2 discusses direct trunked transport. Qwest has proposed the following language:

3 7.2.2.1.4 LIS ordered to a Tandem Switch will be provided as direct trunked
4 transport between the Serving Wire Center of CLEC's POI and the Tandem
5 Switch. Tandem transmission rates, as specified in Exhibit A of this
6 Agreement, will apply to the transport provided from the Tandem Switch to
7 Qwest's End Office Switch.

8

9 **Q. WHAT POSITION IS LEVEL 3 TAKING ON THIS ISSUE?**

10 A. Level 3 has agreed to the first sentence, but has removed the last sentence, again,
11 apparently in the belief that removing any reference to rates relieves it of the
12 obligation to compensate Qwest for the use of the Qwest network to provide service
13 to Level 3's end users.

14

15 **Issue No. 1F**

16 **Q. PLEASE EXPLAIN ISSUE NO. 1F.**

17 A. Issue 1 F concerns Section 7.2.2.9.6 of the agreement, which discusses Level 3's
18 ability to interconnect at tandem and end office switches. Qwest proposes the
19 following language:

20 7.2.2.9.6 The Parties shall terminate Exchange Service (EAS/Local) traffic
21 on Tandem Switches or End Office Switches. CLEC may interconnect at
22 either the Qwest local tandem or the Qwest access tandem for the delivery of
23 local exchange traffic. When CLEC is interconnected at the access tandem
24 and when there is a DS1 level of traffic (512 BHCCS) over three (3)
25 consecutive months between CLEC's Switch and a Qwest End Office Switch,
26 Qwest may request CLEC to order a direct trunk group to the Qwest End
27 Office Switch. CLEC shall comply with that request unless it can
28 demonstrate that such compliance will impose upon it a material adverse

1 economic or operations impact. Furthermore, Qwest may propose to provide
2 Interconnection facilities to the local Tandem Switches or End Office
3 Switches served by the Access Tandem Switch at the same cost to CLEC as
4 Interconnection at the Access Tandem Switch. If CLEC provides a written
5 statement of its objections to a Qwest cost-equivalency proposal, Qwest may
6 require it only: (a) upon demonstrating that a failure to do so will have a
7 material adverse affect on the operation of its network and (b) upon a finding
8 that doing so will have no material adverse impact on the operation of CLEC,
9 as compared with Interconnection at such Access Tandem Switch.

10

11 **Q. WHAT LANGUAGE DOES LEVEL 3 PROPOSE?**

12 A. Level 3 proposes the following language:

13 7.2.2.9.6 ~~The Parties shall terminate Exchange Service (EAS/Local)~~
14 ~~traffic on Tandem Switches or End Office Switches. CLEC may interconnect~~
15 ~~at either the Qwest local tandem or the Qwest access tandem for the delivery~~
16 ~~of local exchange traffic. When CLEC is interconnected at the access tandem~~
17 ~~and when there is a DS1 level of traffic (512 BHCCS) over three (3)~~
18 ~~consecutive months between CLEC's Switch and a Qwest End Office Switch,~~
19 ~~Qwest may request CLEC to order a direct trunk group to the Qwest End~~
20 ~~Office Switch. CLEC shall comply with that request unless it can~~
21 ~~demonstrate that such compliance will impose upon it a material adverse~~
22 ~~economic or operations impact. Furthermore, Qwest may propose to provide~~
23 ~~Interconnection facilities to the local Tandem Switches or End Office~~
24 ~~Switches served by the Access Tandem Switch at the same cost to CLEC as~~
25 ~~Interconnection at the Access Tandem Switch. If CLEC provides a written~~
26 ~~statement of its objections to a Qwest cost-equivalency proposal, Qwest may~~
27 ~~require it only: (a) upon demonstrating that a failure to do so will have a~~
28 ~~material adverse affect on the operation of its network and (b) upon a finding~~
29 ~~that doing so will have no material adverse impact on the operation of CLEC,~~
30 ~~as compared with Interconnection at such Access Tandem Switch.~~
31 **Notwithstanding references to Qwest's ability to requests that CLECs**
32 **order direct trunk groups to the Qwest end office, nothing in this**
33 **agreement shall e shall [sic] be construed to require CLEC to pay Qwest**
34 **for any services or facilities on Qwest's side of the POI in connection with**
35 **the origination of traffic from Qwest to CLEC; and nothing herein shall**
36 **be construed to require CLEC to pay for any services or facilities on**
37 **Qwest's side of the POI in connection with the termination of traffic from**
38 **CLEC by Qwest, other than reciprocal compensation payments as**
39 **provided in this Agreement.**

1 **Q. WHY IS QWEST OPPOSED TO THE LEVEL 3 LANGUAGE?**

2 A. As indicated in the marked up language above, Level 3 has stricken the first two
3 sentences of Qwest's language which describes how Level 3 may interconnect at
4 Qwest local and tandem switches. Mr. Linse describes in his testimony why this
5 language is important from a network perspective. In addition, while agreeing that
6 Qwest may request Level 3 to order a direct trunk group to a Qwest end office
7 switch, Level 3 has removed the Qwest language that would have Level 3 comply
8 with the request, thereby effectively absolving Level 3 of any responsibility for
9 network efficiencies. Finally, Level 3 again inserts the disclaimer that it should not
10 have to pay for the use of the Qwest network. This language not only ignores Level
11 3's obligations under the law, but is also clearly misplaced in a section describing
12 the technical aspects of interconnection.

13

14 **Issue No. 1G**

15 **Q. PLEASE DESCRIBE ISSUE 1G.**

16 A. Issue 1G concerns Sections 7.3.1.1.3 and 7.3.1.1.3.1 of the ICA, which discuss how
17 the cost of jointly used entrance facilities shall be shared by the parties.

18

19 **Q. WHAT LANGUAGE DOES QWEST PROPOSE?**

20 A. Qwest proposes the following language:

21

22

23

24

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

1 entrance facility (EF) rate element charges as follows:
2

3 7.3.1.1.3.1 Entrance Facilities - The provider of the LIS two-way
4 Entrance Facility (EF) will initially share the cost of the LIS two-way EF
5 by assuming an initial relative use factor (RUF) of fifty percent (50%) for
6 a minimum of one (1) quarter if the Parties have not exchanged LIS traffic
7 previously. The nominal charge to the other Party for the use of the EF, as
8 described in Exhibit A, shall be reduced by this initial relative use factor.
9 Payments by the other Party will be according to this initial relative use
10 factor for a minimum of one (1) quarter. The initial relative use factor will
11 continue for both bill reduction and payments until the Parties agree to a
12 new factor, based upon actual minutes of use data for non-ISP-bound
13 traffic to substantiate a change in that factor. If a CLEC's End User
14 Customers are assigned NPA-NXXs associated with a rate center different
15 from the rate center where the Customer is physically located, traffic that
16 does not originate and terminate within the same Qwest local calling area
17 (as approved by the Commission), regardless of the called and calling
18 NPA-NXXs, involving those Customers is referred to as "VNXX traffic".
19 For purposes of determining the relative use factor, the terminating carrier
20 is responsible for ISP-bound traffic and for VNXX traffic. If either Party
21 demonstrates with non-ISP-bound traffic data that actual minutes of use
22 during the first quarter justify a new relative use factor, that Party will
23 send a notice to the other Party. The new factor will be calculated based
24 upon Exhibit H. Once the Parties finalize a new factor, the bill reductions
25 and payments will apply going forward from the date the original notice
26 was sent. ISP-bound traffic or traffic delivered to Enhanced Service
27 providers is interstate in nature. Qwest has never agreed to exchange
28 VNXX Traffic with CLEC.
29

30 **Q. WHAT LANGUAGE DOES LEVEL 3 PROPOSE?**

31 A. Level 3 proposes the following:

32 7.3.1.1.3 Each party is solely responsible for any and all costs arising from or
33 related to establishing and maintaining the interconnection trunks and
34 facilities it uses to connect to the POI. Thus, neither party shall require the
35 other to bear any additional costs for the establishment and operation of
36 interconnection facilities that connect its network to its side of the POI.
37

38 7.3.1.1.3.1 Intercarrier compensation. Intercarrier compensation for
39 traffic exchanged at the SPOI shall be in accordance with FCC Rule
40 51.703 and associated FCC rulings. For avoidance of doubt, any traffic

1 that constitutes “telecommunications” and that is not subject to switched
2 access charges, including without limitation so-called “information
3 access” traffic, shall be subject to compensation from the originating
4 carrier to the terminating carrier at the FCC-mandated capped rate (as of
5 the effective date hereof) of \$0.0007 per minute. Any dispute about the
6 appropriate intercarrier compensation applicable to any particular traffic
7 shall be resolved by reference to the FCC’s rule and associated orders.

8

9 **Q. WHY IS QWEST OPPOSED TO THE LEVEL 3 LANGUAGE?**

10 A. Level 3 again denies that it has an obligation to compensate Qwest for the use of its
11 network, which, as discussed previously, is a position that is clearly at odds with the
12 provisions of the Telecommunications Act..

13

14 **Q. IN PREVIOUS ARBITRATIONS WITH QWEST IN 2002 DID LEVEL 3**
15 **MAKE THIS SAME ARGUMENT?**

16 A. No. In the previous arbitrations, Level 3 agreed to use a relative use factor to
17 apportion transport cost associated with two-way trunking, but disagreed as to the
18 type of traffic that should be included in the calculation.

19

20 **Q. IS THERE A FORM OF INTERCONNECTION THAT LEVEL 3 CAN**
21 **EMPLOY WHICH WOULD ALLOW IT TO AVOID PAYING FOR THE**
22 **RELATIVE USE OF AN ENTRANCE FACILITY?**

23 A. Yes. Under the provisions of the interconnection agreement, there are a number of
24 ways in which Level 3 can choose to interconnect with the Qwest network. One of
25 these options, explained in 7.1.2.3 of the agreement, is a Mid-Span Meet POI. The

1 relative use calculations which apply to an entrance facility purchased from Qwest
2 do not apply to the interconnection facility used in a Mid-Span Meet POI. As noted
3 in Section 7.1.2.3, under this option “[e]ach Party will be responsible for its portion
4 of the build to the Mid-Span Meet POI.” Thus, to the extent that Level 3 seeks to
5 avoid any financial responsibility for the interconnection facility on the Qwest side
6 of the Mid-Span POI, it is free, under this agreement, to negotiate Mid-Span Meet
7 POI under which both parties would construct facilities to the agreed to meet point.
8 Level 3 can also choose to provide collocation, which would also not entail the
9 purchase of an entrance facility to connect with Qwest’s network.

10
11 There are, however, sound reasons for Level 3 to choose the entrance facility
12 options, instead of the Mid-Span Meet POI. By so choosing, Level 3 is able to
13 avoid the initial, and often substantial, investment associated with building its own
14 facilities to the POI. By choosing the entrance facility option, Level 3 pays a
15 nominal non-recurring charge to “turn-on” the Qwest facilities and then pays a
16 monthly recurring charge that is subject to a credit based on Qwest’s relative use of
17 the facilities. Level 3 is clearly avoiding significant capital expenditures by
18 ordering the LIS entrance facility, yet is unwilling to compensate Qwest for this
19 facility.

20
21 **Q. WHY IS IT APPROPRIATE TO EXCLUDE ISP-BOUND AND VNXX**
22 **TRAFFIC FROM THE RELATIVE USE CALCULATION?**

1 A. The FCC rule I just cited appears in Subpart H of the FCC's rules which is titled
2 "Reciprocal Compensation for Transport and Termination of Telecommunications
3 traffic". In Section 51.701(b)(1) the FCC defines "telecommunications traffic" as
4 traffic "exchanged between a LEC and a telecommunications carrier other than a
5 CMRS provider, *except for telecommunications traffic that is interstate or*
6 *intrastate exchange access, information access, or exchange services for such*
7 *access.*" (Italics added). In the ISP Remand Order,⁶ the FCC determined that ISP
8 bound traffic (traffic destined for a local ISP server) is information access. As such,
9 this traffic is expressly excluded from the traffic referred to in 51.709(b). Similarly,
10 VNXX (or interexchange) traffic must be excluded, for, as Mr. Brotherson makes
11 clear in his testimony, VNXX calls that do not originate and terminate in the same
12 local calling area are not subject to the reciprocal compensation obligations of
13 251(b)(5).

14
15 **Q. HAVE FEDERAL COURTS REVIEWED THE ISSUE OF EXCLUDING ISP**
16 **BOUND TRAFFIC?**

17 A. Yes. Qwest's exclusion of ISP traffic has been subject to federal court review in
18 both Oregon and Colorado, and both courts upheld Qwest's language.⁷

⁶ Order on Remand, *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Intercarrier Compensation for ISP-Bound Traffic*, 16 FCCR 9151 (2001) ("ISP Remand Order") ¶ 42.

⁷ Order and Memorandum of Decision, *Level 3 Communications, LLC v. Pub. Utils. Comm'n of Colorado*, 300 F. Supp. 2d 1388 (D. Colo. 2003) ("*Colorado Level 3 Order and Memorandum of Decision*"); Opinion and Order, *Level 3 Communications, LLC v. Public Utils. Comm'n of Oregon*, CV 01-1818 (D. Or. Nov. 25, 2002) (slip op.).

1

2 **Q. IN ITS PETITION, LEVEL 3 CITES THE FCC'S RULE 51.703(B) AND**
3 **ARGUES THAT ILECS ARE PROHIBITED FROM LEVYING CHARGES**
4 **FOR TRAFFIC ORIGINATING ON THEIR OWN NETWORKS. DO YOU**
5 **AGREE?**

6 A. No. 51.703(b) applies to "telecommunications traffic." As was just discussed, ISP
7 bound traffic (traffic destined for a local ISP server) is "information access" and is
8 specifically excluded from the definition of telecommunication traffic. Clearly,
9 51.703(b) does not apply in the case of such ISP bound traffic.

10

11 **Issue No. 1H**

12 **Q. PLEASE EXPLAIN THE DISPUTE RELATED TO ISSUE NO. 1H.**

13 A. Issue 1H is the same as Issue 1G, except that, where 1G concerned allocating the
14 cost of a two-way entrance facility, 1H deals with allocating the cost of two-way
15 direct transport facilities.

16

17 **Q. WHAT LANGUAGE IS QWEST PROPOSING?**

18 A. Qwest is proposing the following language:

19 7.3.2.2 If the Parties elect to establish LIS two-way DTT trunks, for
20 reciprocal exchange of Exchange Service (EAS/Local) traffic the cost of the
21 LIS two-way DTT facilities shall be shared among the Parties by reducing the
22 LIS two-way DTT rate element charges as follows:

23 7.3.2.2.1 The provider of the LIS two-way DTT facility will initially
24 share the cost of the LIS two-way DTT facility by assuming an initial

1 relative use factor of fifty percent (50%) for a minimum of one (1) quarter
2 if the Parties have not exchanged LIS traffic previously. The nominal
3 charge to the other Party for the use of the DTT facility, as described in
4 Exhibit A, shall be reduced by this initial relative use factor. Payments by
5 the other Party will be according to this initial relative use factor for a
6 minimum of one (1) quarter. The initial relative use factor will continue
7 for both bill reduction and payments until the Parties agree to a new factor,
8 based upon actual minutes of use data for non-ISP-bound traffic to
9 substantiate a change in that factor. If a CLEC's End User Customers are
10 assigned a NPA-NXXs associated with a rate center other than the rate
11 center where the Customer is physically located, traffic that does not
12 originate and terminate within the same Qwest local calling area (as
13 approved by the Commission), regardless of the called and calling NPA-
14 NXXs, involving those Customers is referred to as "VNXX traffic". For
15 purposes of determining the relative use factor, the terminating carrier is
16 responsible for ISP-bound traffic and for VNXX traffic. If either Party
17 demonstrates with non-ISP-bound traffic data that actual minutes of use
18 during the first quarter justify a new relative use factor, that Party will
19 send a notice to the other Party. The new factor will be calculated based
20 upon Exhibit H. Once the Parties finalize a new factor, the bill reductions
21 and payments will apply going forward, from the date the original notice
22 was sent. ISP-bound traffic is interstate in nature. Qwest has never
23 agreed to exchange VNXX Traffic with CLEC.

24

25 **Q. WHAT IS LEVEL 3'S PROPOSED LANGUAGE?**

26 A. Level 3 proposes the following language:

27 7.3.2.2 Each party is solely responsible for any and all costs arising from or
28 related to establishing and maintaining the interconnection trunks and
29 facilities it uses to connect to the POI. Thus, neither party shall require the
30 other to bear any additional costs for the establishment and operation of
31 interconnection facilities that connect its network to its side of the POI.

32 Qwest is opposed to this language for all of the reasons cited in the discussion of
33 issue 1G

34

35

1 **Issue No. 1I**

2 **Q. PLEASE DESCRIBE ISSUE 1I**

3 A. Issue 1I again involves compensation, in this case, non-recurring charges for the
4 installation of LIS trunks. Qwest proposes the following language:

5 7.3.3.1 Installation nonrecurring charges may be assessed by the provider for
6 each LIS trunk ordered. Qwest rates are specified in Exhibit A.

7

8 **Q. WHAT LANGUAGE DOES LEVEL 3 PROPOSE?**

9 A. Level 3 proposes the following language:

10 7.3.3.1 Neither Party may charge (and neither Party shall have an obligation
11 to pay) any installation nonrecurring charges or the like, for any LIS trunk
12 ordered for purposes of exchanging ISP-Bound Traffic, 251(b)(5) Traffic, and
13 VoIP Traffic that either Party delivers at a POI, other than the intercarrier
14 compensation rates.

15

16 **Q. ARE QWEST'S OBJECTIONS TO THIS LANGUAGE THE SAME AS FOR**
17 **THE OTHER INTERCONNECTION COMPENSATION ISSUES?**

18 A. Yes. Qwest opposes this language because it denies Qwest compensation for work
19 performed on behalf of Level 3. In addition, Level 3 inappropriately inserts
20 language regarding the type of traffic to be exchanged over LIS trunks, a subject
21 more appropriately addressed elsewhere in the agreement.

22

23 **Issue No. 1J**

24 **Q. PLEASE DESCRIBE ISSUE 1J.**

1 A. Like issue 1H, issue 1J involves the assessment of non-recurring charges related to
2 LIS trunking, in this case non-recurring charges related to trunk rearrangements.

3 Qwest proposes the following language:

4 7.3.3.2 Nonrecurring charges for rearrangement may be assessed by the
5 provider for each LIS trunk rearrangement ordered, at one-half (1/2) the rates
6 specified in Exhibit A.

7

8 **Q. WHAT LANGUAGE IS LEVEL 3 PROPOSING?**

9 A. Level 3 proposes the following language:

10 7.3.3.2 Neither Party may charge (and neither Party shall have an obligation
11 to pay) any nonrecurring charges for rearrangement assessed for any LIS
12 trunk rearrangement ordered for purposes of exchanging ISP-Bound Traffic,
13 251(b)(5) Traffic, and VoIP Traffic that either Party delivers at a POI, other
14 than the intercarrier compensation rates.

15 Again, Qwest opposes this language because it denies Qwest compensation for
16 work performed on behalf of Level 3 and again adds language regarding the
17 exchange of traffic which is more appropriately addressed elsewhere in the
18 agreement.

19

20 **V. DISPUTED ISSUE NO. 2 (A-B): COMBINING TRAFFIC ON**
21 **INTERCONNECTION TRUNKS**

22 **Q. PLEASE EXPLAIN DISPUTED ISSUE NO 2.**

23 A. Issue 2 concerns the types of traffic that may be combined over LIS trunks and
24 whether Qwest is entitled to compensation for the interconnection trunks it provides
25 to Level 3.

1 **Q. WHAT LANGUAGE IS QWEST PROPOSING FOR SECTION 7.2.2.9.3?**

2 A. Qwest is proposing the following language:

3 7.2.2.9.3.1 Exchange Service (EAS/Local), ISP-Bound Traffic, IntraLATA
4 LEC Toll , VoIP traffic and Jointly Provided Switched Access (InterLATA
5 and IntraLATA Toll involving a third party IXC) may be combined in a single
6 LIS trunk group or transmitted on separate LIS trunk groups.

7 7.2.2.9.3.1.1 If CLEC utilizes trunking arrangements as described in
8 Section 7.2.2.9.3.1, Exchange Service (EAS/Local) traffic shall not be
9 combined with Switched Access, not including Jointly Provided Switched
10 Access, on the same trunk group, i.e. Exchange Service (EAS/Local)
11 traffic may not be combined with Switched Access Feature Group D
12 traffic to a Qwest Access Tandem Switch and/or End Office Switch.

13 7.2.2.9.3.2 CLEC may combine originating Exchange Service (EAS/Local)
14 traffic, ISP-Bound Traffic, IntraLATA LEC Toll, VoIP Traffic and Switched
15 Access Feature Group D traffic including Jointly Provided Switched Access
16 traffic, on the same Feature Group D trunk group.

17 7.2.2.9.3.2.1 CLEC shall provide to Qwest, each quarter, Percent Local Use
18 (PLU) factor(s) that can be verified with individual call detail records or the
19 Parties may use call records or mechanized jurisdictionalization using Calling
20 Party Number (CPN) information in lieu of PLU, if CPN is available. Where
21 CLEC utilizes an affiliate's Interexchange Carrier (IXC) Feature Group D
22 trunks to deliver Exchange Service (EAS/Local) traffic with interexchange
23 Switched Access traffic to Qwest, Qwest shall establish trunk group(s) to
24 deliver Exchange Service (EAS/Local), Transit, and IntraLATA LEC Toll to
25 CLEC. Qwest will use or establish a POI for such trunk group in accordance
26 with Section 7.1.

27

28 **Q. WHAT LANGUAGE IS LEVEL 3 PROPOSING?**

29 A. Level 3 proposes the following language:

30 7.2.2.9.3.1 Where CLEC exchanges Telephone Exchange Service, Exchange
31 Access Service, Telephone Toll Service, and Information Services traffic with
32 Qwest over a single interconnection network, CLEC agrees to pay Qwest, on
33 Qwest's side of the POI, state or federally tariffed rates applicable to the
34 facilities charges for InterLATA and/or InterLATA traffic in proportion to the

1 total amount of traffic exchanged over such interconnection facility.
2 Otherwise each party remains 100% responsible for the costs of its
3 interconnection facilities on its side of the POI. Thus, by way of illustration
4 only, where 20% of such traffic is interLATA (intrastate and interstate) and
5 the remaining 80% is Section 251(b)(5) Traffic, CLEC would pay Qwest an
6 amount equal to 20% of the applicable tariffed transport rate that would apply
7 to a tariffed facility used solely for the exchange of such access traffic for
8 such traffic exchanged on Qwest's side of the POI over a single
9 interconnection trunk.

10 Except as expressly provided in Section 7.3.1.1.3, each party shall bear all
11 costs of interconnection on its side of the network in accordance with 47
12 C.F.R. § 51.703. Accordingly, unless otherwise expressly authorized
13 according to Section 7.3.1.1.3, neither Party may charge the other (and neither
14 Party shall have an obligation to pay) any recurring and/or nonrecurring fees,
15 charges or the like (including, without limitation, any transport charges),
16 associated with the exchange of any telecommunications traffic including but
17 not limited to Section 251(b)(5) Traffic on its side of the POI.

18 Each party is solely responsible for any and all costs arising from or related to
19 establishing and maintaining the interconnection trunks and facilities it uses to
20 connect to the POI. Thus, neither party shall require the other to bear any
21 additional costs for the establishment and operation of interconnection
22 facilities that connect its network to its side of the POI. If traffic is combined,
23 Section 7.3.9 of this Agreement applies.

24 7.2.2.9.3.2 CLEC may combine Exchange Service (EAS/Local) traffic, ISP-
25 Bound Traffic, Exchange Access (IntraLATA Toll carried solely by Local
26 Exchange Carriers), VoIP Traffic and Switched Access Feature Group D
27 traffic including Jointly Provided Switched Access traffic, on the same
28 Feature Group D trunk group or over the same interconnection trunk groups as
29 provided in Section 7.3.9.
30

31 **Q. PLEASE SUMMARIZE THE POSITIONS OF THE TWO PARTIES ON**
32 **THIS ISSUE.**

33 A. As I noted previously, there are two issues here: 1) compensation for LIS trunking
34 on the Qwest side of the POI and; 2) what types of traffic may be combined on LIS
35 trunks. With regard to the first issue, Level 3 takes the position that, with the

1 exception of reciprocal compensation charges, it is not responsible for any
2 interconnection charges on the Qwest side of the POI. Qwest believes that it is
3 entitled to recover costs it incurs to provide interconnection to Level 3. These
4 arguments were covered at length in the discussion of Issue No. 1 and need not be
5 repeated here.

6
7 **Q. WHAT ARE THE PARTIES' POSITIONS AS TO WHAT TRAFFIC IS**
8 **ALLOWED OVER LIS TRUNKS?**

9 A. Level 3 believes it should be allowed to combine all traffic, including switched
10 access traffic, over LIS trunks. Although Qwest is willing to allow all traffic types,
11 with the exception of switched access traffic, to be carried over LIS trunks, Qwest
12 requires that switched access traffic be carried over Feature Group D (FGD) trunks.
13 Qwest has required this since 1984 and nothing has changed this requirement.
14 Qwest has agreed to allow all traffic types terminating to Qwest to be combined
15 over FGD trunks, an option that allows for the trunking efficiencies that Level 3 is
16 seeking.

17
18 **Q. THE QWEST LANGUAGE IN SECTION 7.2.2.9.3.1 ALLOWS JOINTLY**
19 **PROVIDED SWITCHED ACCESS TRAFFIC TO BE CARRIED OVER LIS**
20 **TRUNKS. WHAT IS THE INTENT OF ALLOWING JOINTLY PROVIDED**
21 **SWITCHED ACCESS TRAFFIC TO BE CARRIED OVER LIS TRUNKS?**

1 A. Because IXCs generally connect at the Qwest access tandem rather than directly to
2 the CLEC, this language, which appears in all of Qwest's SGATs, is needed to
3 allow traffic to and from a CLEC end user's Presubscribed Interexchange Carrier
4 ("PIC") to be carried over LIS trunks. Thus, CLEC end users are able to reach their
5 Presubscribed Interexchange Carriers and the IXCs are able to get calls to CLEC
6 end users. This traffic is referred to as Jointly Provided Switched Access because
7 both Qwest and the CLEC are involved in providing access to the IXC.

8

9 **Q. IS QWEST REQUIRED TO COMBINE SWITCHED ACCESS ON LIS**
10 **TRUNKS?**

11 A. No. Qwest has no obligation to permit Level 3 to commingle switched access
12 traffic with other types of traffic on the interconnection trunks created under the
13 Agreement. Nothing in the Act or the FCC's regulations give Level 3 the right to
14 mix switched access traffic with local traffic over the local interconnection trunks
15 between its network and Qwest's established pursuant to section 251(c)(2) of the
16 Act.

17

18 **Q. DOES LEVEL 3'S OFFER TO PAY QWEST STATE AND FEDERAL**
19 **TARIFF RATES FOR INTERLATA TRAFFIC IN PROPORTION TO THE**
20 **TOTAL AMOUNT OF TRAFFIC GOING OVER THE LIS TRUNK FULLY**
21 **COMPENSATE QWEST FOR SWITCHED ACCESS TRAFFIC?**

1 A. No. Under Level 3's proposal Qwest would be denied the non-recurring charges
2 that are a part of FGD charges. These are charges that are contained in Qwest's
3 access tariffs and are charges that all IXCs are required to pay.

4

5 **Q. ARE THERE OTHER PROBLEMS WITH THE LEVEL 3 PROPOSAL?**

6 A. Yes. The Level 3 proposal creates serious recording and billing issues as well as
7 issues related to the intercarrier exchange of jointly provided switched access
8 records.

9

10 **Q. WHAT ARE THE BILLING ISSUES THE LEVEL 3 PROPOSAL**
11 **PRESENTS?**

12 A. Today, IXCs are required to route all interLATA switched access traffic and
13 intraLATA switched access traffic over FGD. Qwest's mechanized billing systems
14 are able to use the actual traffic information recorded by its end office switch from
15 the FGD trunks, allowing Qwest to accurately and efficiently produce switched
16 access bills. The Level 3 proposal, on the other hand, would rely on factors, not
17 recordings of actual traffic information, and would not allow Qwest to use its
18 existing mechanized billing processes. In fact, implementing the Level 3 proposal
19 would require investment and significant reworking of Qwest systems and
20 processes, forcing Qwest to expend significant resources to meet the special needs
21 of one carrier.

22

1 **Q. WHAT ARE THE PROBLEMS RELATED TO THE EXCHANGE OF**
2 **SWITCHED ACCESS RECORDS YOU MENTIONED EARLIER?**

3 A. The undisputed language in Section 7.2.2.4 of the agreement requires the parties to
4 use industry standards developed to handle the provisioning and billing of Jointly
5 Provided Switched Access. Under these standards, Qwest is required to provide
6 industry standard jointly provided switched access records to LECs and CLECs
7 when Qwest transports and switches jointly provided switched access traffic.
8 Today these records are produced mechanically, using the information recorded on
9 the FGD trunks. Level 3's use of billing factors would not allow Qwest to provide
10 the industry standard records to the terminating LEC or CLEC carriers. If Qwest
11 does not record this traffic as FGD, neither Qwest nor the collaborating LEC or
12 CLEC can bill the IXC who originated the call. In addition, if one of these IXC
13 calls that Level 3 is requesting to route over LIS were routed on to another CLEC or
14 ILEC, Qwest could potentially get billed for switched access or reciprocal
15 compensation for a call that really originated with an IXC, as Qwest would be
16 unable to provide the appropriate JPSA record to the CLEC or ILEC.

17

18 **Q. IS QWEST IN A POSITION TO AGREE TO A PROPOSAL THAT WILL**
19 **IMPACT OTHER LECS AND CLECS?**

20 A. No. Even if Qwest were willing to agree to use factors for the traffic it terminates,
21 Qwest cannot agree to a proposal that will impact all ILECs and CLECs that today
22 rely on Qwest to provide them with a jointly provided switched access record.

1 Without the switched access records they are receiving today, these companies, too,
2 would have to change their systems and processes for billing their portion of
3 switched access to the IXC.

4

5 **Q. HOW DO YOU RESPOND TO LEVEL 3'S ARGUMENTS THAT**
6 **COMBINING ALL TRAFFIC OVER A SINGLE TRUNK GROUP IS MORE**
7 **EFFICIENT?**

8 A. Qwest has offered Level 3 an approach which will allow the network efficiencies
9 that Level 3 is seeking. Qwest's proposed language for Section 7.2.2.9.3.2 offers
10 Level 3 the capability to combine all traffic over a FGD interconnection trunk
11 group. Combining all of the traffic over FGD not only allows for the efficiencies
12 Level 3 claims to need, it also allows for mechanized billing of the appropriate
13 tariffed rates and the ability to produce the necessary jointly provided switched
14 access records. There is simply no reason to grapple with the difficulties inherent
15 in Level 3's proposal when a workable solution to combining all traffic on a single
16 trunk group already exists.

17

18 **Q. HAS QWEST ALLOWED OTHER CARRIERS TO USE LIS TRUNKS IN**
19 **THE MANNER THAT LEVEL 3 IS PROPOSING HERE?**

20 A. No. All CLECs interconnected with Qwest have interconnection agreements that
21 either provide for the segregation of traffic onto separate trunk groups or the
22 combining of terminating traffic onto a FGD trunk group. There is simply no valid

1 reason to give Level 3 special treatment that would cause great expense and
2 disruption for Qwest and other carriers.

3

4 **VI. DISPUTED ISSUE NO. 5: SHOULD INTERCONNECTION TERMS BE**
5 **INCORPORATED BY REFERENCE**

6 **Q. PLEASE EXPLAIN THE NATURE OF THE DISPUTE AROUND THIS**
7 **ISSUE.**

8 A. Level 3 alleges that Qwest's proposed interconnection agreement attempts to
9 incorporate, by reference, certain state Statement of Generally Available Terms
10 (SGAT) terms and conditions.

11

12 **Q. DOES QWEST'S PROPOSED AGREEMENT ATTEMPT TO**
13 **INCORPORATE SGAT TERMS AND CONDITIONS?**

14 A. No. Level 3 has misinterpreted the cross-references that Qwest included in its
15 template interconnection agreement which was used as a basis for negotiations.
16 The SGAT references in the template agreement signify that a commission has
17 approved state-specific language that is different than the generic language used in
18 the fourteen state template. Thus, for example, the state commissions in Colorado,
19 Minnesota and South Dakota have each prescribed language for Section 5.8.1 in the
20 fourteen state template. Qwest's intent in referencing the state SGATs in the
21 template was to signify that the state specific language was to be substituted for the
22 template language in those cases. The interconnection agreement that was
23 submitted with Qwest's response in this docket contains the state specific language

1 that Qwest proposes and contains no cross-references to the SGAT. Hopefully,
2 Qwest's clarification and the proposed state specific interconnection agreement will
3 allow the parties to close this issue.

4

5 **VII. DISPUTED ISSUE NO. 13: LOCAL INTERCONNECTION**
6 **SERVICE DEFINITION**

7 **Q. PLEASE DESCRIBE ISSUE NO. 13.**

8 A. Issue No. 13 relates to the definition of local interconnection service.

9

10 **Q. WHAT IS QWEST'S PROPOSED DEFINITION FOR LOCAL**
11 **INTERCONNECTION SERVICE?**

12 A. Qwest proposes the following definition in the ICA:

13 "Local Interconnection Service or "LIS" Entrance Facility" is a DS1 or DS3
14 facility that extends from CLEC's Switch location or Point of Interconnection
15 (POI) to the Qwest Serving Wire Center. An Entrance Facility may not
16 extend beyond the area served by the Qwest Serving Wire Center.
17

18 **Q. WHAT IS LEVEL 3'S DEFINITION**

19 A. Level 3 objects to Qwest's definition but fails to provide a definition of its own.

20

21 **Q. WHAT IS THE BASIS OF LEVEL 3'S OBJECTION?**

22 A. Level 3 claims that the Qwest definition shifts the cost of Qwest's network to Level

23 3.

24

1 **Q. DO YOU AGREE?**

2 A. No. The definition of “Local Interconnection Service or ‘LIS’ Entrance Facility” is
3 nothing more than a definition of a facility that connects Qwest’s network to Level
4 3’s network. The definition does not contain any language that determines who
5 bears the cost of this facility. Level 3 provides no legitimate reason for rejecting
6 this definition. Level 3’s concern about the allocation of the costs of
7 interconnection is addressed in Issue No. 1G. As I explained in the discussion of
8 issue 1G, Level 3 has the option of using a Mid-Span Meet POI or collocation for
9 interconnection rather than an entrance facility, options that would allow it to avoid
10 compensating Qwest for an entrance facility on the Qwest side of the POI.

11

12 **VIII. DISPUTED ISSUE NO. 17: TRUNK FORECASTING**

13 **Q. PLEASE EXPLAIN ISSUE NO 17.**

14 A. Issue 17 has to do with Section 7.2.2.8 of the agreement which discusses the
15 forecasting of LIS trunks.

16 **Q. WHAT LANGUAGE IS QWEST PROPOSING?**

17 A. Qwest is proposing the following language:

18 7.2.2.8.1 Both CLEC and Qwest shall work in good faith to define a
19 mutually agreed upon forecast of LIS trunking.

20 7.2.2.8.2 Both Parties shall have the obligation to participate in joint
21 planning meetings at semi-annual intervals to establish trunk design and
22 Provisioning requirements. The Parties agree to provide mutual trunk forecast
23 information to ensure End User Customer call completion between the
24 Parties’ networks. Such forecasts shall be for LIS trunking that impacts the
25 Switch capacity and facilities of each Party. Qwest shall provide trunk group

1 specific projections to CLEC on or before the date of the joint planning
2 meeting.

3 7.2.2.8.3 Switch capacity growth requiring the addition of new switching
4 modules may require six (6) months to order and install. To align with the
5 timeframe needed to provide for the requested facilities, including
6 engineering, ordering, installation and make ready activities, for capacity
7 growth, Qwest will utilize CLEC's semi-annual forecasts and near-term
8 demand submitted on Unforecast Demand Notification Forms to ensure
9 availability of Switch capacity.

10 7.2.2.8.4 The Parties agree that trunk forecasts are non-binding and are based
11 on the information available to each respective Party at the time the forecasts
12 are prepared. Unforecasted trunk demands, if any, by one Party will be
13 accommodated by the other Party as soon as practicable based on facility
14 availability. Switch capacity growth requiring the addition of new switching
15 modules may require six (6) months to order and install.

16 7.2.2.8.5 In the event of a dispute regarding forecast quantities, where in
17 each of the preceding eighteen (18) months, trunks required is less than fifty
18 percent (50%) of forecast, Qwest will make capacity available in accordance
19 with the lower forecast.

20 7.2.2.8.6 Three (3) weeks after a forecasting cycle, Qwest will provide
21 CLEC feedback in the form of a potentially lower forecast. In the event of a
22 dispute regarding forecast quantities, where in each of the preceding eighteen
23 (18) months, trunks-required is less than fifty percent (50%) of trunks in
24 service, Qwest will make capacity available in accordance with the lower
25 forecast.

26 7.2.2.8.6.1 If Qwest constructs non-reusable facilities in response to a
27 CLEC forecast, and subsequent related orders are not issued by CLEC
28 within 6 months of the completed construction, Qwest may seek non-
29 punitive liquidated damages that do not exceed Qwest's actual
30 construction costs.

31 7.2.2.8.6.2 Intentionally left blank.

32 7.2.2.8.7 Joint planning meetings will be used to bring clarity to the process.
33 Each Party will provide adequate information associated with the Qwest LIS
34 Trunk Forecast Forms in addition to its forecasts. During the joint planning
35 meetings, both Parties shall provide information on major network projects
36 anticipated for the following year that may impact the other Party's forecast or
37 Interconnection requirements. No later than two (2) weeks prior to the joint

1 planning meetings, the Parties shall exchange information to facilitate the
2 planning process. Qwest shall provide CLEC a report reflecting then current
3 spare capacity at each Qwest Switch that may impact the Interconnection
4 traffic. Qwest shall also provide a report reflecting then current blocking of
5 local direct and alternate final trunk groups, Interconnection and non-
6 Interconnection alike. CLEC will be provided Interconnection trunk group
7 data on its own trunks. Qwest shall also provide a report reflecting Tandem
8 Switch routed Interconnection trunking that has exceeded 512BHCCS. The
9 information is Proprietary, provided under non-disclosure and is to be used
10 solely for Interconnection network planning.

11 7.2.2.8.8 In addition to the above information, CLEC shall provide:

- 12 a) Completed Qwest LIS Trunk Forecast Forms; and
- 13 b) Any planned use of an alternate Tandem Switch provider.

14 7.2.2.8.9 In addition to the above information, the following information will
15 be available through the Local Exchange Routing Guide or the
16 Interconnections (ICONN) Database. The LERG is available through
17 Telcordia. ICONN is available through the Qwest Web site.

- 18 a) Qwest Tandem Switches and Qwest End Office Switches (LERG);
- 19 b) CLLI codes (LERG);
- 20 c) Business/Residence line counts (ICONN);
- 21 d) Switch type (LERG or ICONN); and
- 22 e) Current and planned Switch generics (ICONN).

23 Qwest will notify CLEC six (6) months prior to LERG amendment, the
24 anticipation of a new local Tandem Switch.

25 7.2.2.8.10 Qwest network disclosure of deployment information for specific
26 technical capabilities (e.g., ISDN deployment, 64 CCC, etc.) shall be provided
27 on Qwest's web site, <http://www.qwest.com/disclosures>.

28 7.2.2.8.11 When appropriate, Qwest will notify CLEC through the Qwest
29 Trunk Group Servicing Request (TGSR) process of the need to take action
30 and place orders in accordance with the forecasted trunk requirements. CLEC
31 shall respond to the TGSR within ten (10) business days of receipt.

32 7.2.2.8.12 The following terms shall apply to the forecasting process:

1 7.2.2.8.12.1 CLEC forecasts may be provided to Qwest as detailed in
2 Qwest's Trunk Forecast Form;

3 7.2.2.8.12.2 CLEC forecasts provided to Qwest, information provided by
4 CLEC to Qwest outside of the normal forecasting process to modify the
5 forecast, and forecasting information disclosed by Qwest to CLEC shall be
6 deemed Confidential Information and the Parties may not distribute,
7 disclose or reveal, in any form, this material other than as allowed and
8 described in subsections 5.16.9.1 and 5.16.9.2.

9 7.2.2.8.13 If a trunk group is consistently utilized (trunks-required over
10 trunks-in-service) at less than fifty percent (50%) of rated busy-hour capacity
11 each month of any consecutive three (3) month period, Qwest will notify
12 CLEC of Qwest's desire to resize the trunk group. Such notification shall
13 include Qwest's information on current utilization levels. If CLEC does not
14 submit an ASR to resize the trunk group or provide Qwest with its reasons for
15 maintaining excess capacity within thirty (30) calendar Days of the written
16 notification, Qwest may reclaim the unused facilities and rearrange the trunk
17 group. When reclamation does occur, Qwest shall not leave the CLEC-
18 assigned trunk group with less than twenty-five percent (25%) excess
19 capacity. Ancillary trunk groups are excluded from this treatment.

20 7.2.2.8.14 Intentionally Left Blank.

21 7.2.2.8.15 Each Party shall provide a specified point of contact for planning,
22 forecasting and trunk servicing purposes.

23 7.2.2.8.16 Interconnection facilities provided on a route that involves
24 extraordinary circumstances may be subject to the Construction Charges, as
25 detailed in Section 19 of this Agreement. When Qwest claims extraordinary
26 circumstances exist, it must apply to the Commission for approval of such
27 charges by showing that CLEC alone is the sole cause of such construction.
28 Qwest shall initiate such proceeding within ten (10) calendar Days of
29 notifying CLEC in writing that it will not construct the requested facilities, or
30 within ten (10) calendar Days of notice from CLEC in writing that Qwest
31 must either commence construction of the facilities or initiate such proceeding
32 with the Commission. In this proceeding, Qwest shall not object to using the
33 most expeditious procedure available under state law, rule or regulation.
34 Qwest shall be relieved of its obligation of constructing such facilities during
35 the pendency of the proceeding before the Commission. If the Commission
36 approves such charges, Qwest and CLEC will share costs in proportion to
37 each Party's use of the overall capacity of the route involved. Qwest and
38 CLEC may also choose to work in good faith to identify and locate alternative
39 routes that can be used to accommodate CLEC forecasted build.

1 Extraordinary circumstances include, but are not limited to, natural
2 obstructions such as lakes, rivers, or steep terrain, and legal obstructions such
3 as governmental, federal, Native American or private rights of way. The
4 standard Qwest forecast period of six (6) months may not apply under these
5 circumstances. Construction Charges shall not apply in the event that
6 construction is an augment of an existing route.

7

8 **Q. DOES THIS LANGUAGE REPRESENT A REVISION TO THE SECTION**
9 **7.2.2.8 LANGUAGE THAT WAS CONTAINED IN THE**
10 **INTERCONNECTION AGREEMENT ATTACHED TO QWEST'S**
11 **RESPONSE TO LEVEL 3'S PETITION FOR ARBITRATION?**

12 A. Yes. The above language makes the necessary corrections to the language that
13 Qwest previously filed.

14

15 **Q. WHAT LANGUAGE IS LEVEL 3 PROPOSING?**

16 A. Level 3 is not proposing any language related to LIS trunk forecasting and opposes
17 the Qwest proposed language. Level 3 argues that it is not required to manage
18 Qwest's network or forecast Qwest's trunk requirements on Qwest's side of the
19 point of interconnection.

20

21 **Q. WHY DOES QWEST FEEL THAT THE LIS FORECASTING LANGUAGE**
22 **IS NECESSARY?**

23 A. LIS forecasting serves the interest of both parties by helping to ensure that adequate
24 capacity is made available to allow for the exchange of traffic between the parties.

1 As a result, it is important that the interconnection agreement provide for the
2 development and utilization of forecasts. Although Level 3 argues that it has no
3 responsibility for forecasting, Level 3 is actually the party who is in the best
4 position to provide the forecasts. After all, it is the ISP customers of Level 3 who
5 are driving the demand for the trunking. The business plans of these ISPs and the
6 number of customers they sign up determine the amount of trunking that is
7 required. Qwest has no relationship with these ISPs and is clearly not in a position
8 to forecast the trunking requirements. Level 3's proposals leave Qwest in the
9 untenable position of not only having to provide facilities without compensation,
10 but also having to guess about future facilities requirements.

11

12 **IX. DISPUTED ISSUE NO. 18: JURISDICTIONAL ALLOCATION FACTORS**

13 **Q. PLEASE EXPLAIN ISSUE NO. 18.**

14 A. Issue 18 concerns jurisdictional allocation factors for billing purposes. Level 3's
15 proposed language introduces several new jurisdictional allocation factors which
16 Qwest opposes.

17

18 **Q. WHAT LANGUAGE IS LEVEL 3 PROPOSING?**

19 A. Level 3 proposes the following:

20 7.3.9 To the extent a Party combines Section 251(b)(5) Traffic and Jointly
21 Provided Switched Access (InterLATA and IntraLATA calls exchanged with a
22 third party IXC) traffic on a single trunk group, the originating Party, at the
23 terminating Party's request will declare monthly PLU(s) PIU(s), and PIPU(s),
24 collectively "Jurisdictional Factors." Such Jurisdictional Factors will be

1 verifiable with either call summary records utilizing Call Record information
2 for jurisdictionalization or call detail samples. The terminating Party should
3 apportion per minute of use (MOU) charges appropriately.

4
5 7.3.9.1 The Jurisdictional Factors - PLU, PIU and PIPU - are defined as
6 follows:

7
8 7.3.9.1.1 PIPU – Percent IP Usage: This factor represents the traffic
9 that is IP Enabled as a percentage of ALL traffic. CLEC has
10 introduced this factor to identify IP-Enabled Services traffic for
11 billing purposes to Qwest on an interim basis until an industry
12 standard is implemented. IP-Enabled traffic includes all IP-TDM and
13 TDM to IP traffic that is exchanged directly between the parties.

14
15 7.3.9.1.2 PIU – Percent Interstate Usage: This factor represents the
16 end-to-end circuit switched traffic (*i.e.* TDM-IP-TDM) that is
17 interstate for services that are billed at tariffed rates on a per Minute
18 Of Use (MOU) basis as a percentage of all end-to-end circuit
19 switched traffic, *i.e.* all interstate traffic after IP-Enabled traffic has
20 been excluded. This factor does not include IP-Enabled Services
21 Traffic.

22
23 7.3.9.1.3 PLU – Percent 251(b)(5) Usage: This factor represents the
24 end to end circuit switched 251(b)(5) traffic as a percentage of all end
25 to end circuit switched intrastate traffic. This factor distinguishes
26 traffic that is rated as “local” (*i.e.* “Section 251(b)(5) traffic”) for
27 Intrastate toll traffic. This factor does not include IP-Enabled Services
28 traffic.

29
30 7.3.9.2 Unless otherwise agreed to by the parties: (1) factors will be
31 calculated and exchanged on a monthly basis. Percentages will be
32 calculated to two decimal places (for example 22.34%); (2) each party will
33 calculate factors for all traffic that they originate and exchanged directly
34 with the other Party; and (3) the party responsible for collecting data will
35 collect all traffic data, including but not limited to Call Detail Records
36 (this includes CPN), from each trunk group in the state over which the
37 parties exchange traffic during each study period. The parties will
38 calculate the factors defined in Section 7.9.1, above, as follows:

39
40 7.3.9.2.1 PIPU: The PIPU is calculated by dividing the total IP-
41 Enabled Services MOU by the total MOU. The PIPU is calculated on
42 a statewide basis.
43

1 7.3.9.2.1.1 Upon ILEC request, CLEC will provide a PIPU factor for all
2 minutes of usage exchanged directly between the Parties over the
3 Interconnection Trunk Groups in each state. CLEC will provide separate
4 PIPU factors for CLEC Terminating IP-enabled Traffic and CLEC
5 Originating IP-enabled Traffic, which terms are defined in sections
6 7.8.4.3.1.1 and 7.8.4.3.1.2, respectively, below. Accordingly, the PIPU
7 factor is based upon CLEC's actual and verifiable Call Detail Records of
8 IP-originated traffic
9

10 7.3.9.3 Exchange of Data:

11
12 7.3.9.3.1 The party responsible for billing will provide the PIPU, PLU
13 and PIU factors to the non-collecting party on or before the 15th of each
14 month, via email (or other method as mutually agreed between the
15 parties), to designated points of contact within each company.
16

17 7.3.9.4 Maintenance of Records

18
19 7.3.9.4.1 Each company will maintain traffic data on a readily available
20 basis for a minimum period of one year (or however long as required by
21 state and federal regulations) after the end of the month for which such
22 data was collected for audit purposes.
23

24 7.3.9.5 Audits

25 7.3.9.5.1 Each company will have the ability to audit the other
26 company's traffic factors up to a maximum of twice per year. A party
27 seeking audit must provide notice of their intent to audit and include
28 specific dates, amounts and other detail necessary for the party receiving
29 the request to process the audit. Notice must be provided in writing and
30 postmarked as mailed to the audited party within one year after the end of
31 each month(s) for which they seek audit.
32

33 7.3.9.5.2 The audited party must provide in a mutually agreeable
34 electronic format traffic data for the months requested according to
35 Section 7.3.9.5.1 above.
36

37 7.3.9.6 True-Up

38 In addition to rights of audit, the Parties agree that where a factor is found to
39 be in error by more than 2%, they will automatically true up the factors and
40 pay or remit the resulting amounts to correct such errors.
41

1 **Q. WHY IS QWEST OPPOSED TO LEVEL 3'S PROPOSED FACTORS?**

2 A. The only reason for introducing these factors is to allow for billing when switched
3 access traffic is commingled with all other traffic on a LIS trunk group. As was
4 noted in the discussion of Issue No. 2, these factors would not be necessary if
5 switched access traffic were carried over a FGD trunk group, as opposed to a LIS
6 trunk group. There is simply no reason to go to a system of factors, with the
7 difficulties they present, when a workable solution to combining all traffic on a
8 single trunk group already exists. In addition, the existing FGD solution is superior
9 to Level 3's proposal in that it relies on actual traffic information to determine
10 accurate jurisdiction of recorded calls, not estimates which may or may not be
11 accurate and at the very least will require continual updating. Further, as there is no
12 industry standard method of determining IP-enabled services at this time, the PIPU
13 factor proposed by Level 3 is unverifiable by Qwest, and includes traffic that does
14 not conform to the definition of VoIP proposed by Qwest and discussed in Mr.
15 Brotherson's testimony.

16

17 **Q. IT APPEARS THAT THE LEVEL 3 PROPOSED LANGUAGE REQUIRES**
18 **QWEST TO PROVIDE FACTORS TO LEVEL 3. ARE SUCH FACTORS**
19 **NECESSARY?**

20 A. No. Qwest believes that Level 3 is able to bill accurately today. Level 3 provides
21 no reasons why Qwest provided factors will be necessary in the future.

22

1 **Q. DOES THE LEVEL 3 PROPOSAL INCLUDE A FACTOR FOR ALL TYPES**
2 **OF TRAFFIC?**

3 A. No. Level 3's proposed language does not include a factor for intrastate toll traffic.
4 It is unclear to Qwest how this type of traffic will be handled under Level 3's
5 proposal.

6

7 **X. DISPUTED ISSUE NO. 21: ORDERING OF**
8 **INTERCONNECTION TRUNKS**

9 **Q. PLEASE EXPLAIN THE NATURE OF THE DISPUTE ON THIS ISSUE.**

10 A. Issue No. 21 concerns language that Level 3 is attempting to insert in section 7.4 of
11 the agreement which discusses the ordering of local interconnection service.

12

13 **Q. WHAT LANGUAGE IS LEVEL 3 PROPOSING?**

14 A. Level 3 is proposing to insert the following language into Section 7.4, page of the
15 ICA:

16 7.4.1.1 Nothing in this section 7.4 shall be construed to in any way affect the
17 Parties' respective obligations to pay each other for any activities or functions
18 under this Agreement. All references in this section 7.4 to 'ordering' shall be
19 construed to refer only to the administrative processes needed to establish
20 interconnection and trunking arrangements and shall have no effect on either
21 Party's financial obligations to the other.

22

23 **Q. WHY IS QWEST OPPOSED TO THE INSERTION OF THIS LANGUAGE?**

24 A. In addition to the fact that Qwest disagrees with Level 3's contention that it has no
25 financial obligation on Qwest's side of the POI, Level 3's language is misplaced.

26 Section 7.4 of the agreement has to do with the ordering of local interconnection

1 service and does not address allocation of responsibility for the cost of
2 interconnection.

3
4 Level 3's proposed Section 7.4.1.1 only underscores why its position on allocation
5 of the costs of interconnection is wrong. The fact that Level 3 requests (or orders)
6 facilities on Qwest's side of the network demonstrates that the interconnection is
7 done for Level 3's benefit. Level 3 makes requests for Qwest facilities on Qwest's
8 side of the point of interconnection so that Level 3 can serve its own ISP customers.

9
10 Section 7.4.1.1 is simply unnecessary. The Commission will determine who pays
11 the costs of interconnection in the Sections of the Agreement that are related to
12 Issue No. 1. Accordingly, since nothing in Section 7.4 requires Level 3 to pay
13 interconnection costs, Level 3's proposed Section 7.4.1.1 should be rejected.

14

15 **XI. DISPUTED ISSUE NO. 22: COMPENSATION**
16 **FOR SPECIAL CONSTRUCTION**

17 **Q. PLEASE EXPLAIN ISSUE NO. 22.**

18 A. Issue 22 has to do with construction charges and whether Level 3 is responsible for
19 charges related to special construction that it requests on the Qwest side of the POI.
20 Level 3 proposes to insert language stating that it has no obligation for construction
21 on the Qwest side of the POI.

22

23 **Q. WHAT IS THE LANGUAGE THAT LEVEL 3 PROPOSES TO INSERT?**

1 A. Level 3 proposes to insert the following language in Section 19 of the ICA:

2 19.1.1. Nothing in this section 19 shall be construed to in any way affect the
3 Parties' respective obligations to pay each other for any activities or functions
4 under this Agreement. All references in this section 19 to construction
5 charges be construed to refer only to those Level 3 requests for construction
6 that are outside the scope of what is needed to establish interconnection and
7 trunking arrangements and shall have no effect on either Party's financial
8 obligations to the other.
9

10 **Q. WHY IS QWEST OPPOSED TO THIS LANGUAGE?**

11 A. Level 3's proposed language again underscores the unreasonableness of Level 3's
12 position that it should not have to pay any of the interconnection costs Qwest incurs
13 on its side of the point of interconnection. When Level 3 requests that Qwest build
14 additional facilities for network interconnection, these costs are incurred to benefit
15 Level 3 and Level 3's ISP end users. If Level 3 and its ISP end users are benefiting
16 by the additional cost for building facilities, Level 3, not Qwest, should bear that
17 cost. Under the Act, Qwest is entitled to just and reasonable compensation for the
18 costs it incurs.

19

20 **XII. CONCLUSION**

21 **Q. DOES THIS CONCLUDE YOUR TESTIMONY.**

22 A. Yes.