

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

In the Matter of the Petition for)	
Arbitration of an Interconnection)	
Agreement Between)	
)	DOCKET NO. UT-023043
LEVEL 3 COMMUNICATIONS, LLC.,)	
)	FOURTH SUPPLEMENTAL
and)	ORDER: DENYING PETITION TO
)	INTERVENE
CENTURYTEL OF WASHINGTON,)	
INC.,)	
)	
Pursuant to 47 U.S.C. Section 252)	
.....)	

1 **PROCEEDINGS:** Docket No. UT-023043 is a petition filed by Level 3 Communications, LLC., (Level 3) for arbitration pursuant to 47 U.S.C. §252(b)(1) of the Telecommunications Act of 1996, Public Law No. 104-104, 101 Stat. 56 (1996) (Telecom Act), of a proposed interconnection agreement between Level 3 and CenturyTel of Washington, Inc., (CenturyTel). The Commission convened a prehearing conference in this docket at Olympia, Washington on September 24, 2002, before Arbitrator Dennis J. Moss.

2 **APPEARANCES:** Rogelio E. Peña, Peña & Associates, LLC., Boulder, Colorado, represents Level 3 Communications. Calvin K. Simshaw, corporate counsel for CenturyTel, Vancouver, Washington, represents CenturyTel. Richard A. Finnigan, attorney, Olympia, Washington, represents the Washington Independent Telephone Association (WITA), which filed a petition to intervene.

3 **PETITION TO INTERVENE:** WITA filed its Petition To Intervene in Arbitration on September 16, 2002. Level 3 requested that it be given an opportunity to file a written response prior to any ruling on the Petition and the request was granted. Level 3 filed its response on October 4, 2002.

4 WITA's Petition To Intervene states that the organization's interest in this proceeding stems from its members' interest in the method by which parties to interconnection agreements "will handle Virtual NXX ("VNXX") traffic." WITA states that it earlier sought a declaratory ruling from the Commission concerning how VNNX traffic should be handled. The Commission declined to enter a declaratory order.¹ Subsequently, however, on October 16, 2002, the Commission entered its Order Establishing Process and Closing Docket in the declaratory order proceeding, Docket No. UT-020667. Among other things, the Order Establishing Process states that in lieu of other suggestions by persons interested in Docket No. UT-020667, "the Commission selects the less formal and less adversarial process of developing an interpretive and policy statement to address [the] issues" raised by WITA's petition for a declaratory order.

5 The Commission's general policy on intervention in arbitrations under the Telecommunications Act of 1996 is set forth in its Interpretive and Policy Statement Regarding Negotiation, Mediation, Arbitration and Approval of Agreements Under the Telecommunications Act of 1996, issued in Docket No. UT-960269 on June 28, 1996, as follows:

The Commission interprets the Act as contemplating that arbitrations involve only the parties to the negotiation. Others may ask to participate but will be allowed to do so only upon a showing of compelling public interest.

6 Whether WITA's interest in this instance rises to the level of a "compelling public interest" need not be decided in view of the Commission's decision to provide another forum in which WITA's interest in the treatment of virtual NXX can be addressed. Considering this, and the fact that an arbitration proceeding under the Telecommunications Act of 1996 generally is an unsuitable forum for participation by parties other than the negotiating parties, WITA's Petition To Intervene in this arbitration is denied.

¹ *In re the Petition of WITA for a Declaratory Order on the Use of Virtual NPA/NXX Calling Patterns, Order Declining To Enter Declaratory Order, Docket No. UT-020667 (August 19, 2002).*

DATED at Olympia, Washington and effective this 31st day of October 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DENNIS J. MOSS
Arbitrator