BEFORE THE WASHINGTON STATE UTILTIES AND TRANSPORTATION COMMISSION

QWEST CORPORATION, **Complainant,** **v.** **LEVEL 3 COMMUNICATIONS, LLC; PAC-WEST TELECOMM, INC.; NORTHWEST TELEPHONE INC.; TCG-SEATTLE; ELECTRIC LIGHTWAVE, INC.; ADVANCED TELCOM GROUP, INC. D/B/A ESCHELON TELECOM, INC.; FOCAL COMMUNICATIONS CORPORATION; GLOBAL CROSSING LOCAL SERVICES INC; AND, MCI WORLDCOM COMMUNICATIONS, INC.**	**DOCKET NO. UT-063038**
In the Matter of the Request of **MCIMETRO ACCESS TRANSMISSION SERVICES, LLC d/b/a Verizon Access Transmission Services** **and** **QWEST CORPORATION,** **For Approval of Negotiated Agreement Under the Telecommunications Act of 1996.**	**DOCKET NO. UT-063055** **ANSWER OF VERIZON ACCESS TRANSMISSION SERVICES TO VARIOUS PETITIONS FOR ADMINISTRATIVE REVIEW**

MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services ("Verizon Access") hereby responds to the petitions for administrative review of the Initial Order No. 05 in Docket UT-063038 and Order No. 2 in Docket UT-063055 (collectively referred to as the "Initial Order") filed by Level 3 Communications, LLC

("Level 3") and the Washington Independent Telephone Association ("WITA"). The Initial Order correctly approved the settlement agreement entered into by Verizon Access and Qwest Corporation ("Qwest") on February 23, 2007 (the "Agreement"), finding that the Agreement (including the interconnection agreement amendment included therein, referred to here as the "Amendment") is non-discriminatory and consistent with the public interest and convenience. Initial Order at ¶¶ 115-17.

1. The Level 3 Petition Should be Rejected, as the Amendment Does Not Discriminate Against Any Other Carrier.

Level 3 argues that the Amendment should not have been approved in the Initial Order because of Verizon Access's "very low percentage of FX-like traffic and high percentage of compensable traffic in Washington." Level 3 Petition at 37. According to Level 3, the architecture of Verizon Access's network is somehow different than that of other Washington competitive local exchange carriers ("CLECs") and, for this reason, the compensation arrangement in the Amendment discriminates against other CLECs. That is false. Level 3's suggestion that all CLECs should implement networks with similar characteristics ignores the benefits of competitive markets; competitive entry was encouraged so that firms would have incentives to invest in new systems and technologies designed to meet differing customer needs. The fact that the Amendment's compensation arrangement reasonably meets the two settling parties' business needs does not make the agreement discriminatory, and Verizon Access cannot be penalized simply because it has chosen to operate in the market in a manner different than Level 3. Moreover, as the Initial Order notes, an agreement that would apply the same formula for calculating a unitary compensation rate for an adopting carrier as it does for the parties to the agreement is not

discriminatory simply because such a calculation could yield different results for different carriers. *See* Initial Order at ¶ 116.

Level 3 offers nothing new in support of its flawed argument, except that it continues to imply Verizon Access's relevant architecture is related in some way to the architecture of Verizon's incumbent entity in Washington (Verizon Northwest Inc.). *See* Level 3 Petition at 37 (referring to Verizon Access's network in Washington as "more like an incumbent architecture"). As addressed in Verizon Access's Reply Brief (see pages 4-6), that implication is false: Verizon Access established the relevant network architecture prior to the Verizon/MCI merger, and has never used Verizon Northwest Inc. facilities with regard to the traffic at issue. In any event, the network architecture of Verizon Access provides no basis for the Commission to reject the Amendment, as the compensation formula included therein would be applied to any adopting carrier. The Initial Order appropriately recognizes as much in reaching the correct conclusion that there is no basis under 47 U.S.C. § 252(e)(2) to find that the amendment discriminates against a carrier not a party to the agreement.

2. The WITA Petition Should be Rejected, as it Offers No Ground on Which the Agreement Could be Rejected.

WITA argues that the Agreement "should not be approved to the extent that it authorizes the use of VNXX services for dial-up ISP and voice traffic." WITA Petition at 19. It asserts that the validity of the Amendment "rises or falls based upon what the Commission does with VNXX services in general." WITA Petition at 19. That is not the case. The Commission has rebuffed WITA requests in the past to address VNXX issues "in general,"

noting that "these issues are more appropriately pursued in fact-specific disputes."[1] In this case, Qwest presented a fact-specific dispute with Verizon Access, which has now been resolved fully by the Agreement.

Indeed, a state commission may reject a voluntarily negotiated interconnection agreement under 47 U.S.C. § 252(e)(2) only upon a finding that either: (i) the agreement discriminates against a telecommunications carrier not a party to the agreement, or (ii) implementation of the agreement is not consistent with the public interest, convenience and necessity. For all the reasons stated in Verizon's opening and reply briefs, neither ground exists with regard to the Amendment. WITA's Petition offers no explanation as to how the Agreement, which resolves all VNXX issues between Qwest and Verizon Access, discriminates against another carrier or would be inconsistent with the public interest, convenience and necessity. Instead, WITA vaguely alludes to general policy concerns it purports to have regarding VNXX issues, regarding which, as the Initial Order notes, it "supplied no witness or evidence." Initial Order at ¶ 105; *see also* Verizon Access Reply Brief at 2-4. With no evidence to support its purported policy concerns that would in any event be insufficient grounds to reject the Amendment under federal law, the portion of WITA's Petition addressing the Agreement must be rejected.

[1] *In the Matter of Developing an Interpretive and Policy Statement on the Use of NPA/NXX Calling Patterns,* UT-021569, Notice of Docket Closure (July 21, 2003); *see also Petition from Washington Independent Telephone Association for Declaratory Order on the Use of Virtual NPA/NXX Calling Patterns*, Docket UT-020667, Order Declining to Enter Declaratory Order (August 19, 2002); Order Establishing Process and Closing Docket (October 16, 2002).

CONCLUSION

As the Initial Order correctly found (¶ 115), the Agreement resolving VNXX disputes between Qwest and Verizon Access is non-discriminatory and consistent with the public interest and convenience. The Level 3 and WITA Petitions requesting reversal of the Initial Order's approval of the Agreement should be rejected.

DATED this 14th day of November, 2007.

VERIZON ACCESS TRANSMISSION SERVICES

By _____
Gregory M. Romano