

Exhibit No. ____ (MDG-3)
Docket UT-053039
WITNESS: MACK D. GREENE

**BEFORE THE WASHINGTON UTILITIES
AND TRANSPORTATION COMMISSION**

PAC-WEST TELECOMM, INC.,

Petitioner,

v.

QWEST CORPORATION,

Respondent.

DOCKET UT-053036

LEVEL 3 COMMUNICATIONS, LLC,

Petitioner,

v.

QWEST CORPORATION,

Respondent.

DOCKET UT-053039

**LEVEL 3 COMMUNICATIONS, LLC
EXHIBIT OF MACK D. GREENE**

SEPTEMBER 7, 2012

CenturyLink
1600 7th Avenue, Room 1506
Seattle, Washington 98191
Phone: (206) 345-1574
Facsimile (206) 343-4040



Lisa A. Anderl
Associate General Counsel
Regulatory Law Department

August 10, 2012

Lisa Rackner
McDowell Rackner & Gibson PC
419 SW 11th Ave., Suite 400
Portland, OR 97205

Re: Consolidated
Docket No. UT-053036 – PacWest Complaint
Docket No. UT-053039 – Level 3 Communications Complaint
Qwest's Responses to Level 3's Second Set of Data Requests

Dear Mr. Danner:

Enclosed herein is Qwest Corporation's Responses to Level 3's Second Set of Data Requests. Paper copies will be forwarded by overnight mail.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lisa A. Anderl".

Lisa A. Anderl

LAA/ldj
Enclosures

Qwest Corporation
Washington
Docket No. UT-053036 UT-053039 (Consolidated)
Second Set of Responses to Level 3
August 10, 2012
Page 1

- 2.1 With respect to your answer to data request 1.2, please state whether Qwest or any of its affiliates has ever made intercarrier compensation payments to any carriers other than Level 3 or Pac West for the completion of calls using VNXX arrangements in states other than the State of Washington. If your answer is affirmative, please state the following:
- a. The identity of the carrier(s);
 - b. The dates on which such payments were made;
 - c. The rate upon which such payments were calculated; and
 - d. Whether such payment were refunded to Qwest or to such affiliate.

Response: Qwest objects to this data request on the basis that the information sought is not relevant to the dispute in this case, which is Washington-specific in terms of how VNXX is categorized.

Respondents: Legal/Lisa Anderl

Qwest Corporation
Washington
Docket No. UT-053036 UT-053039 (Consolidated)
Second Set of Responses to Level 3
August 10, 2012
Page 2

- 2.2 With respect to your answer to data request 2.2[sic 1.3] specifically identify the tariff in question to which you cite and identify:
- a. The specific provisions of section 6.8 of the “tariff” that you contend requires Level 3 to make access payments to Qwest for the completion of ISP-bound VNXX traffic;
 - b. Explain in detail the basis for your answer to 2.2(a) above with respect to each provision so cited;
 - c. State whether there are any other bases upon which you contend that Level 3 owes Qwest access payments for the completion of ISP-bound VNXX traffic;
 - d. Identify each such basis and explain in detail the basis for your answer citing and explain all authority which you contend supports your answer.

Response: Qwest objects to this data request to the extent that it asks for information that is outside the scope of what may properly be sought in discovery. Level 3 asks for information that will be presented in post-hearing briefs, such as citations to legal authority. Without waiver of this objection, Qwest responds as follows:

- 2.2 The tariff in question is Qwest’s intrastate access tariff, WN-U 48, effective August 7, 2012, and its predecessor tariffs. In addition, to the extent relevant, the tariff also includes Qwest’s FCC tariff. The response to Request 1.3 is modified to state more generally that Section 6 of the tariff may apply, while Section 6.8 contains the rates and charges for access services. The extent to which specific provisions in Section 6 exactly match what Level 3 was doing is distorted somewhat by the fact that Level 3 sought to avoid the applicability of Section 6 by employing the VNXX numbering, thereby concealing the true interexchange nature of the traffic.
- a. The specific provisions include, but are not necessarily limited to, Sections 6.1, 6.1.1, 6.1.2, and 6.8, which contains the rates. Section 6.8.1 addresses switched transport, including DTT (direct trunked transport), tandem switching and transport, entrance facilities, and multiplexing; Section 6.8.2 addresses local end office switching – in the case of Level 3, the originating local switching charge would apply. All of these rates and charges would have been applicable to Level 3 in providing an interexchange service, but for Level 3’s avoidance of these charges by concealing the nature of the traffic using VNXX numbering.

Qwest Corporation
Washington
Docket No. UT-053036 UT-053039 (Consolidated)
Second Set of Responses to Level 3
August 10, 2012
Page 3

- b. The Section 6 provisions define Switched Access Service and the various service arrangements. The ICA provides that if Level 3 uses the LIS trunks to provide an access service, the switched access tariffs apply.
- c. Yes.
- d. The other bases include the Commission's previous orders in this docket, as well as the prior Commission orders in the MetroLink case and the U&I CANN cases, cited in Qwest's response to the motion for summary determination. See, paragraph 25, fn. 3, and paragraph 34, fn. 10. The Commission's final order in the VNXX docket also suggests that access charges are due on VNXX traffic unless the carriers have agreed to bill and keep and the VNXX provider has agreed to pay for the transport. Docket No. UT-063038.

Respondents: Legal/Lisa Anderl

Qwest Corporation
Washington
Docket No. UT-053036 UT-053039 (Consolidated)
Second Set of Responses to Level 3
August 10, 2012
Page 4

- 2.3 With respect to your answer to data request 1.5,
- a. Explain the call configuration and routing of an ISP-Bound call using Qwest's Primary Rate Service "purchased using an FX arrangement." Explain the rating of such call and cite to the appropriate provisions in Qwest's tariffs (and identify the specific tariff so cited).
 - b. Describe in detail Qwest Communications Corporation's Wholesale Dial service, including call configuration, routing and rating; and the types of customers and intended uses of the service.

Response:

- a. Foreign Exchange service is essentially local service combined with private line transport. Under Qwest's FX product offering, a Qwest FX customer purchases a local service connection in the LCA associated with the telephone number. That local service connection is purchased by the FX customer out of the local exchange tariffs that apply to that LCA. The Qwest FX customer then pays for transport to its answering location at retail private line transport rates. The Qwest FX customer is treated as an end user and as such may not charge terminating compensation.
- b. Wholesale Dial was a former product offering that Qwest's unregulated affiliate company, QCC, once offered to ISPs. To create the product, QCC purchased tariffed Primary Rate ISDN ("PRI") services in each local calling area in which it provided Wholesale Dial Service. The service was offered as a bundled product to ISPs who did not have enough customers to warrant purchasing tariffed services on their own. With Wholesale Dial, transport costs were paid by QCC at retail private line transport rates. QCC, acting as an Enhanced Service Provider, was treated as an end user and did not charge for terminating compensation.

Respondent: William Easton

Qwest Corporation
Washington
Docket No. UT-053036 UT-053039 (Consolidated)
Second Set of Responses to Level 3
August 10, 2012
Page 5

2.4 With respect to your answer to data request 1.6:

- a. Identify each interconnection agreement and each provision thereof that supports your contention that “[w]hether the traffic is subject to reciprocal compensation or access is also governed by the ICA.”
- b. Identify and produce all analyses, projections, studies, communications and other documents that support, refute, refer to or relate to your answer to data request 1.2 and 2.4(a).

Response:

- a. The following provisions from the Interconnection Agreement between Qwest and Level 3 filed with the WUTC on March 7, 2003 in Docket UT-023042 support Qwest’s contention that whether the traffic is subject to reciprocal compensation or access is governed by the ICA:

4.22 “Exchange Access (IntraLATA Toll)” is defined in accordance with Qwest’s current IntraLATA toll serving areas, as determined by Qwest’s state and interstate Tariffs and excludes toll provided using Switched Access purchased by an IXC.

4.24 “Exchange Service” or “Extended Area Service (EAS)/Local Traffic” means traffic that is originated and terminated within the local calling area determined by the Commission.

7.2.1.2 The traffic types to be exchanged under this Agreement include:

7.2.1.2.1 EAS/Local Exchange Service (EAS/Local) traffic as defined in this Agreement.

7.2.1.2.2 IntraLATA Toll Exchange Access (IntraLATA Toll) traffic as defined in this Agreement.

7.3.1 Interconnection Facility Options

The Reciprocal Compensation Provisions of this Agreement shall apply to the exchange of Exchange Service (EAS/Local) traffic between CLEC’s network and Qwest’s network. ***Where either Party acts as an IntraLATA Toll provider, each Party shall bill the other the appropriate charges pursuant to its***

Qwest Corporation
Washington
Docket No. UT-053036 UT-053039 (Consolidated)
Second Set of Responses to Level 3
August 10, 2012
Page 6

respective Tariff or Price Lists. Where either Party interconnects and delivers traffic to the other from third parties, each Party shall bill such third parties the appropriate charges pursuant to its respective Tariffs, Price Lists or contractual offerings for such third party terminations. Absent a separately negotiated agreement to the contrary, the Parties will directly exchange traffic between their respective networks without the use of third party transit providers. (Emphasis added).

7.3.4.1.1 The per minute of use call termination rates as described in Exhibit A of this Agreement will apply reciprocally for Exchange Service (EAS/Local) traffic terminated at a Qwest or CLEC end office.

7.3.4.3 The Parties agree to exchange all EAS/Local (§251(b)(5)) and ISP-bound traffic (as that term is used in the FCC ISP Order) at the FCC ordered rate, pursuant to the FCC ISP Order. The FCC ordered rate for ISP-bound traffic will apply to EAS/Local and ISP-bound traffic in lieu of End Office call termination and Tandem Switched Transport.

Sections 7.6, 7.7 and 7.9.2 of July 2, 2002 Exhibit A rate sheet.

Sections 7.6, 7.7 and 7.11 of June 25, 2004 Exhibit A rate sheet.

Respondent: William Easton

Qwest Corporation
Washington
Docket No. UT-053036 UT-053039 (Consolidated)
Second Set of Responses to Level 3
August 10, 2012
Page 10

2.8 Admit that Feature Group C access service is provided only to AT&T.

Admit ___ Deny ___

Explanation if answer is other than an unqualified admission: Deny – Feature Group C access service is provided to QC.

Respondent: William Easton

Qwest Corporation
Washington
Docket No. UT-053036 UT-053039 (Consolidated)
Second Set of Responses to Level 3
August 10, 2012
Page 14

- 2.12 Admit that that in providing service on ISP-Bound calls originated from a Qwest subscriber to an ISP served by Level 3 utilizing VNXX arrangements, Qwest is not an “similar or successor services” to those described in sections 6.2.1 through 6.2.7 of Qwest’s Tariff WN U-44, Access Service, Washington.

Admit: ___ Deny ___

Explanation if answer is other than an unqualified admission: Deny. Based on the FCC definition, ISP-Bound calls do not include calls dialed via VNXX arrangements. Also denied because the Qwest services are in fact similar – Qwest provides switching and transport as it would for an interexchange call, and therefore provides Level 3 the same services that Level 3 should have purchased from the access tariff to allow legitimate interexchange calling.

Respondent: Legal/Lisa Anderl

CERTIFICATE OF SERVICE

Consolidated Pac-West/Level 3 Complaint
Docket Nos. UT-053036, UT-053039

I certify that I have caused to be served copies of Qwest's Responses to Level 3's Second Set of Data Requests by email and overnight mail on the following parties:

Pac-West Sam Shiffman Pac-West Telecomm, Inc. Building 2, Suite 200 6500 River Place Blvd Austin, TX 78730	Counsel for Level 3 Lisa Rackner * McDowell & Rackner PC 419 SW 11 th Ave Ste 400 Portland, OR 97205
Counsel for Pac-West J. Jeffrey Mayhook Laura A. Mayhook Mayhook Law, LLC 34808 NE 14 th Ave La Center, WA 98629	Level 3 Michael Shortly <i>Email Only</i>

DATED at Seattle, Washington, this 10th day of August, 2012.



Leslie D. Johnson