BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

PAC-WEST TELECOMM, INC.,	)	**DOCKET UT-053036**
	)	***(consolidated*)**
Petitioner,	)	
	)	
v.	)	
	)	
QWEST CORPORATION,	)	
	)	
Respondent.	)	
	)	
. . . . .	)	
	)	**DOCKET UT-053039**
LEVEL 3 COMMUNICATIONS, LLC,	)	**(*consolidated)***
	)	
Petitioner,	)	
	)	
v.	)	
	)	
QWEST CORPORATION,	)	
	)	
Respondent.	)	
	)	
. . . . .	)	

DIRECT TESTIMONY

OF WILLIAM R. EASTON

QWEST CORPORATION

SEPTEMBER 7, 2012

REDACTED

CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER IN
DOCKETS UT-053036 AND UT-053039

TABLE OF CONTENTS

I. IDENTIFICATION OF WITNESS

Q. PLEASE STATE YOUR NAME, CURRENT TITLE, EMPLOYER AND BUSINESS ADDRESS.

A. My name is William Easton. I am a Wholesale Staff Director at CenturyLink Inc., the corporate parent of Qwest Corporation. My business address is 1600 7th Avenue, Seattle, Washington.

Q. PLEASE GIVE A BRIEF BACKGROUND OF YOUR EDUCATION AND TELEPHONE COMPANY EXPERIENCE.

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

I began working for Pacific Northwest Bell in 1980, and have held a series of jobs in financial management with U S WEST, Qwest and now CenturyLink, including staff positions in the Treasury and Network organizations. From 1996 through 1998, I was Director – Capital Recovery. In this role I negotiated depreciation rates with state commission and FCC staffs and testified in various regulatory proceedings. From 1998 until 2001 I was a Director of Wholesale Finance, responsible for the management of Wholesale revenue streams from a financial perspective. In this capacity I worked closely with the Product Management organization on their product offerings and projections of

revenue. In October of 2001 I moved from Wholesale Finance to the Wholesale Advocacy group, where I am currently responsible for advocacy related to Wholesale products and services. In this role, I work extensively with the Product Management, Network and Costing organizations.

Q. HAVE YOU TESTIFIED PREVIOUSLY IN WASHINGTON?

A. Yes I have. I testified in Docket Numbers UT-940641, UT-950200, UT-951425, UT-960347, UT-013097, UT-023003, UT-003013 (Part D), UT-033035, UT-033044, UT-043045, UT-063006, UT-063013, UT-063061 and UT-083041.

II. PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to discuss the compensation ramifications of the Commission's November 14, 2011 ruling that the VNXX traffic at issue in this docket is interexchange traffic that is not subject to reciprocal compensation. I will detail the reciprocal compensation amounts that Qwest previously paid on VNXX traffic as a result of the Commission's initial February 2006 decision in the Level 3 and Pac-West dockets to quantify the amounts that should now be refunded to Qwest. I will then discuss what the appropriate compensation treatment is for this type of traffic. To provide the necessary context for the compensation discussion, I will first briefly discuss what VNXX traffic is,

the history of this docket, and the related VNXX complaint docket and what the Commission has ruled in these dockets.

Q. PLEASE SUMMARIZE YOUR TESTIMONY.

A. This Commission has now issued decisions in the VNXX complaint docket[1] and in Order No. 12 in this docket[2] that have important implications for the ultimate outcome of this docket. In the VNXX complaint docket, the Commission found that VNXX traffic was interexchange traffic. In the Commission's Decision No. 12 in this docket, the Commission reaffirmed that because VNXX traffic is interexchange traffic encompassed by Section 251(g) of the Telecommunications Act of 1996 (the "Act"), it is not subject to reciprocal compensation. The Commission then determined that the traffic meets the definition of IntraLATA toll calls. The purpose of this proceeding is to determine what the appropriate compensation for this traffic should have been throughout the relevant time periods that the Level 3 and Pac-West agreements at issue in this proceeding were in effect.

[1] *Qwest Corp. v. Level 3 Communications, LLC, et al.*, Docket UT-063038, Order 10, Final Order Upholding Initial Order; Granting in Part and Denying in Part Petitions for Administrative Review; Modifying Initial Order; Approving Settlement, n.2 (July 16, 2008) (*Final VNXX Order*).

[2] *Pac-West Telecomm, Inc. v. Qwest Corporation*, Docket UT-053036, and *Level 3 Communications, LLC v. Qwest Corporation*, Docket UT-053039 (Consolidated), Order 12, Order Denying Pac-West's Motion for Summary Determination; Denying Level 3's Motion for Summary Determination; Granting in Part and Denying in Part Qwest's Motion for Summary Determination; and Denying Qwest's Motion to Strike, or in the Alternative File a Reply, (November 14, 2011).

Qwest believes that, since this traffic has now been deemed to be interexchange and not subject to reciprocal compensation, Level 3 and Pac-West must refund the reciprocal compensation amounts that Qwest had previously been ordered to pay. Further, given that this traffic has now been determined to be IntraLATA toll traffic, Level 3 and Pac-West should be required to compensate Qwest for this traffic using the access rates that the carriers have intentionally and successfully avoided for several years as a result of their use of VNXX numbering arrangements.

Qwest has performed detailed traffic studies to determine the amounts of VNXX traffic for both Level 3 and Pac-West and from these studies has calculated the amount of reciprocal compensation that had been previously paid to each carrier for VNXX traffic. Qwest has also calculated the amount of switched access charges that should have applied to these IntraLATA toll calls.

In the VNXX Complaint docket, the Commission found that "VNXX traffic is lawful under applicable state law if appropriate compensation is paid for the exchange of such traffic between carriers." Qwest's proposals seek to ensure that the appropriate compensation is paid for the VNXX traffic that has been exchanged with Level 3 and Pac-West.

III. CONTEXTUAL BACKGROUND

A. VNXX TRAFFIC

Q. WHAT IS VNXX?

A. Virtual NXX ("VNXX") is a number assignment scheme used by Competitive Local Exchange Carriers ("CLECs") serving ISPs to allow ISP dial-up customers to place long distance calls to connect to the Internet without paying toll charges. In a VNXX telephone numbering arrangement, a CLEC assigns a telephone number that it has obtained from the North American Numbering Plan Administrator ("NANPA") to one of its ISP customers that is not physically located in the local calling area ("LCA") associated with the NXX[3] of the assigned telephone number. To a Qwest end user customer who is located in the same LCA as the one associated with the telephone number assigned to the CLEC customer (ISP), a call to the VNXX number appears to be local. In other words, the calling party (the Qwest end user) does not need to dial "1+", and, therefore, no toll charges are assessed to the calling party. Yet, in reality, the calls actually terminate to the CLEC ISP customer

[3] As the Commission noted in its November 14th 2011 order, "a telephone number typically has ten digits, labeled by telecommunications carriers as NPA-NXX-XXXX. The first three digits are known as the Numbering Plan Area (NPA) or area code. The second set of three digits is the exchange or NXX code. These codes generally correspond to geographic areas served by a local exchange carrier that operates central offices and switches that are identified by NXX codes. When a customer dials a number, the NXX code helps direct that call to a particular central office and, in turn, helps to route that call to the called number on the terminating end. Historically, the NXX number determines whether a call is to terminate within or outside the local calling area. This, in turn, determines whether a call is rated a local call or an interexchange call, and determines the applicable intercarrier compensation between carriers." (¶ 18).

physically located in a separate and distinct LCA. So, while the calls appear to be local, they are not. In effect, VNXX is a number assignment scheme that disguises interexchange calls as local calls.

Q. WHAT IS THE PRACTICAL EFFECT OF VNXX ARRANGEMENTS?

A. By assigning VNXXs to its customers Level 3 and Pac-West create the interexchange link between the caller and the ISP and they therefore function as IXCs with respect to VNXX traffic. The practical effect is that, through the use of VNXX, the CLEC provides its ISP customer a toll-free interexchange service, but at no extra charge to the calling party, and without the proper intercarrier compensation being paid to the originating ILEC. VNXX thus ignores the historic and current framework for NXX code assignments, network architectures, and the rating and billing of calls which have been based upon the geographic assignment of NXX codes and the associated local rate center configuration. As such, VNXX is inconsistent with the existing national framework for PSTN calls within which all carriers currently operate.

Q. IS YOUR DESCRIPTION OF VNXX CONSISTENT WITH THE PREVIOUS FINDINGS OF THIS COMMISSION?

A. Yes. In its Final VNXX Order in the VNXX complaint docket, the Commission stated:

> VNXX traffic arrangements occur when the carrier assigns a telephone number from a rate center (NXX) in a local calling area different from the one where the customer is physically located. For example, a customer in Seattle is assigned a number for a local calling area in Olympia. The effect of this assignment is that a call to the VNXX number appears to terminate within the Olympia local calling

> area, but will actually terminate in the Seattle local calling area. Because intercarrier compensation depends on whether this call is classified as "local" (subject to reciprocal compensation) or interexchange (subject to access charges), the classification decision is central to determining who pays whom and how much.
>
> The great majority of VNXX calls are made to ISPs (ISP-bound traffic). CLECs use VNXX arrangements primarily to serve their ISP customers. VNXX enables the ISP dial-up customers to connect with the Internet without incurring toll or access charges. (Citations omitted). (¶¶ 21-22).

Q. WHAT ARE THE INTERCARRIER COMPENSATION IMPLICATIONS OF VNXX?

A. As I stated, voice telecommunications traffic is typically categorized as either local or toll, determined by the physical locations of the calling and called parties and the geographical boundaries of the originating and terminating LCAs. Local traffic is telecommunications traffic that physically originates and physically terminates in a geographically-defined LCA. These geographically-defined areas allow for an end-user customer's unlimited local calling within these areas for a Commission-approved flat rate. When two carriers collaborate to complete a local call, the originating carrier is compensated by its end user, and the terminating carrier is entitled to compensation from the originating carrier for the transport and termination it provides pursuant to Section 251(b)(5) of the Telecommunications Act. The payment to the terminating carrier for the transport and termination of local traffic is referred to as reciprocal compensation.

By contrast, interexchange (toll) traffic is traffic that originates and terminates between end users physically located in different local calling areas/EAS areas and is commonly

referred to as "long distance" traffic. The Commission's existing rules and orders categorize traffic that originates and terminates in different LCAs as interexchange traffic and applicable interexchange compensation rules apply. This interexchange access traffic is governed by the switched access compensation rules that have been defined since 1984 and that are still in effect today.

VNXX turns these historical local and interexchange compensation rules on their head by making interexchange calls appear to be local based upon the existence of the local dialing pattern. The use of VNXX numbering arrangements not only denies originating carriers, such as Qwest, the access compensation to which they are entitled for interexchange calls, but also attempts to force them to pay reciprocal compensation for traffic which is not truly local.

B. DOCKET HISTORY

Q. PLEASE DISCUSS THE BACKGROUND OF THIS PROCEEDING.

A. This dispute between the parties dates back to 2004 when Qwest began withholding reciprocal compensation payments from Level 3 and Pac-West for VNXX traffic. In response, in June 2005, both Level 3 and Pac-West filed Petitions for Enforcement of Interconnection Agreements with the Commission, asking the Commission to enforce the terms of the interconnection agreements concerning compensation for traffic to internet

service providers ("ISPs"), including VNXX traffic. In its counterclaims, Qwest asserted that the CLECs' use of VNXX was illegal and that the traffic in question was not subject to the FCC ordered compensation for ISP-bound traffic since the calls did not physically originate and terminate in the same local calling area.

Q. HOW DID THE COMMISSION INITIALLY RESOLVE THESE ISSUES?

A. In February 2006, the Commission granted Level 3's and Pac-West's motions for summary judgment, finding that Qwest must compensate the CLECs for ISP traffic, regardless of whether the traffic physically originated and terminated in the same local calling area.[4] As a result of the order, Qwest was required to retroactively pay Level 3 and Pac-West reciprocal compensation, plus interest. Going forward, Qwest was required to pay reciprocal compensation for all ISP traffic.

Q. WHAT HAPPENED SUBSEQUENT TO THE FEBRUARY 2006 DECISIONS?

A. In July 2006, Qwest appealed the Commission's orders to the U.S. District Court for the Western District of Washington, asking the court to overturn the enforcement case decisions. In April 2007, the District Court issued a decision finding the Commission's decision was inconsistent with the FCC's ISP Remand Order and remanded the case back to the Commission for further proceedings.[5]

[4] *Level 3 Communications, LLC v. Qwest Corporation,* Docket UT-053039, Order No. 5, Order Accepting Interlocutory Review; Granting in Part; and Denying in Part, Level 3's Petition for Interlocutory Review. (February 9, 2006).

[5] *Qwest v. Washington Utils. & Transp. Comm'n*, 484 F. Supp. 2d 1160 (W.D. Wash., 2007)

Q. WERE THERE ADDITIONAL VNXX TRAFFIC ISSUES BEFORE THE COMMISSION DURING THIS SAME TIME FRAME?

A. Yes. In May 2006, Qwest brought a complaint against nine CLECs asserting that the CLECs violated state law by using VNXX arrangements to provide ISP service, in an attempt to avoid access charges. The Qwest complaint was docketed as UT-063038. In July 2008, the Commission issued its final order in the VNXX complaint case, finding that VNXX service was lawful if compensation was paid to the originating LEC for transport it provides.

Q. WHAT DID THE COMMISSION DO IN RESPONSE TO THE REMAND FROM THE DISTRICT COURT?

A. On November 14, 2011 the Commission issued Order 12 in the consolidated Level 3/Pac-West docket. The Commission found that VNXX traffic does not originate and terminate within the same local calling area and is thus, either intrastate interexchange traffic subject to commission determined compensation and not subject to section 251(b)(5) of the Act, or interstate interexchange traffic subject to the FCC's jurisdiction.

The Commission also found that the VNXX traffic in question is intraLATA toll or toll-like traffic under the agreements, and that it is necessary to conduct a further evidentiary proceeding to determine the location of the ISP modems in each Qwest local calling area and to determine the volume of VNXX ISP-bound traffic subject to compensation.

(*Qwest).*

C. SUMMARY OF WUTC VNXX FINDINGS

Q. PLEASE SUMMARIZE THE COMMISSION'S FINDINGS FROM THE VNXX COMPLAINT DOCKET.

A. There were several key findings in the Commission's Final VNXX Order, including the following:

- In Washington, telephone calls are classified as local or interexchange based on geographic calling areas, not on the basis of assigned telephone numbers. VNXX traffic does not originate and terminate within the same local calling area and is thus intrastate interexchange traffic subject to Commission determined compensation and not subject to section 251(b)(5) of the Act. (Conclusions of Law 14).

- The Act preserved in section 251(g) the existing compensation scheme for interstate and intrastate interexchange and information access traffic, but under section 251(b)(5) required local exchange carriers to apply a new form of compensation, known as reciprocal compensation, to the transport and termination of telecommunications traffic. The FCC determined that reciprocal compensation obligations under section 251(b)(5) apply only to traffic that originates and terminates within a local calling area, such that the customer initiating the call pays the originating carrier and the originating carrier must pay the terminating carrier for completing the call. (¶ 18).

- Regulatory arbitrage is associated with VNXX ISP-bound traffic in Washington. (Conclusions of Law 18).

- VNXX traffic is lawful under applicable state law if appropriate compensation is paid for the exchange of such traffic between carriers. RCW 80.36.080, .140, .160, .170. (Conclusions of Law 9).

- Bill and keep for VNXX traffic is a workable compensation methodology and it is reasonably possible to distinguish between VNXX traffic and truly local traffic. (Findings of Fact 18).

- Bill and keep is a reasonable methodology to address intercarrier compensation for the exchange of VNXX traffic at fair, just and reasonable rates, provided that the

CLEC bears the cost of transporting VNXX calls, except where it has built its own transport facilities, has procured alternative facilities from a third party, or uses special access services for transporting VNXX calls to and from a local calling area where it does not have switching services. (Conclusions of Law 19).

Q. PLEASE SUMMARIZE THE COMMISSION'S FINDINGS FROM THE NOVEMBER 14TH, 2011 ORDER IN THE CONSOLIDATED ENFORCEMENT DOCKET.

A. There were additional key findings in the Commission's Order 12 in the consolidated enforcement dockets, including the following:

- Neither the *ISP Remand Order* nor the *Mandamus Order* eliminated the distinction between local and interexchange calls. Rather those orders found that, even though ISP-bound calls within a local calling area fell under the reciprocal compensation provisions of section 251(b)(5), the calls were interstate calls under an end-to-end analysis. Because those ISP-bound calls were interstate in nature, the FCC had the authority to set the rates for such calls under section 201. We find nothing in the *ISP Remand Order* or the *Mandamus Order* that affects our authority to classify intrastate VNXX traffic. (¶ 74)

- Furthermore, the rules for classifying calls as local or interexchange in Washington have been clearly delineated and understood by the parties. When the CLEC's adopted Qwest's local calling areas by and through their interconnection agreements, we have to believe that they understood the financial implications of their actions. No matter what innovative network or numbering arrangements have been made to facilitate ISP-bound traffic, calls are either local as defined by our rules or they are not. If they terminate outside the callers local exchange, we treat them as interexchange in nature and require compensation as such. This is the import of our *Final VNXX Order* and we believe our analysis then and now to be correct. The CLECs should bear the cost of using Qwest's network to serve their customers. This is a fundamental principle of intercarrier compensation that is reflected in interconnection agreements between these parties and those of all other companies within our jurisdiction. (¶ 77)

- We determined above that: (1) the *Mandamus Order* does not change the scope of the *ISP Remand Order* and the compensation scheme it created, which only applies to calls within a local calling area; (2) that the section 251(g) exclusion still applies to ISP-bound traffic outside of a local calling area, and (3) that VNXX traffic does not originate and terminate within a local calling area. Thus, we find that the parties' interconnection agreements and amendments, which require compensation at the rates set by the FCC, are not determinative of the rate for the narrow scope of ISP-bound traffic at issue in this case. Similarly, because we have found that VNXX ISP-bound traffic is subject to the section 251(g) exclusion, the traffic is *not s*ubject to compensation under section 251(b)(5). (¶ 90).

- Under these terms, it appears that VNXX traffic does not meet the definitions of Exchange Service or Access Services, but does meet the definition of IntraLATA Toll. (¶ 92).

- In light of our finding that the VNXX traffic in question is IntraLATA Toll or Toll-like traffic under the agreements, and the parties' disputes about the amount and type of traffic at issue, it is necessary to develop a full evidentiary record as to the exact location of the CLECs' ISP modems, at the time of the traffic in question in this proceeding, in order to determine which traffic is subject to our jurisdiction and should be subject to such toll rates (¶ 96).

IV. TRAFFIC STUDY METHODOLOGY

Q. LATER IN YOUR TESTIMONY YOU WILL BE DISCUSSING THE APPROPRIATE COMPENSATION FOR VNXX TRAFFIC. HOW IS QWEST ABLE TO DETERMINE WHETHER TRAFFIC IS VNXX IN NATURE?

A. Through the use of its CROSS/7/BI and TUMS traffic analysis systems, Qwest is able to calculate the amount of VNXX traffic it sends to a CLEC in Washington.

Q. BEFORE DESCRIBING THE METHODOLOGY IN MORE DETAIL, PLEASE

DESCRIBE THE TRAFFIC ANALYSIS SYSTEMS, STARTING WITH CROSS7 AND BI .

A. CroSS7 is an acronym that stands for Call Recording Over Signaling System 7. The CroSS7 system is Qwest's recording system for traffic carried over trunks using Signaling System 7 ("SS7") signaling that interconnect Qwest with CLECs and Wireless Service Providers ("WSPs"). The CroSS7 system was utilized for reporting until 2009 when QC converted to the enhanced Business Intelligence ("BI") system which also uses SS7 signaling information to generate reports. CroSS7 and BI were run in parallel for a period in 2009, but the BI records became the primary basis for the traffic study methodology beginning in April 2009.

Q. WHAT ARE CROSS7 RECORDS AND HOW ARE THESE RECORDS USED?

A. Qwest's CroSS7 system creates records from information extracted from the SS7 signaling for traffic carried over the SS7-signaled Local Interconnection Service ("LIS") trunk groups interconnecting Qwest with CLECs and SS7-signaled Type 2 trunks interconnecting Qwest with WSPs. Qwest uses the CLEC originating CroSS7 records for billing to the CLECs for reciprocal compensation. These CroSS7 records are also summarized on a monthly basis into several reports that are used for validation of billed charges. The "Traffic Routing" reports, used in Qwest's VNXX analyses, provide information by state, direction of the call (e.g. originated by Qwest or originated by the other carrier), carrier (CLEC or WSP), type of trunk group (tandem or end office) with completed messages and conversation (or "talk time") minutes categorized as follows:

- Qwest Local/Extended Area Service ("EAS")
- Non-Qwest Local/EAS
- Qwest IntraLATA Toll – Exchange Access or Intra Local Access and Transport Area ("LATA") toll traffic that originates or terminates to a Qwest telephone number. Qwest is not necessarily the toll provider for these calls.
- Non-Qwest IntraLATA Toll – Exchange Access or IntraLATA toll traffic that originating or terminates to a non-Qwest telephone number
- InterLATA toll traffic – InterLATA or intraLATA toll traffic carried by an interexchange carrier
- No-Calling Party Number or No-Charged Party Number (or an invalid originating number)
- Error

The BI system also extracts information from the SS7 signaling (as described above for CroSS7) and summarizes the information on a monthly basis in several reports, including the "Traffic Routing" reports used in Qwest's VNXX analysis. The BI system categorizes the MOUs as described above, but also has additional (or more refined categories). Qwest uses the Qwest Local/EAS originating and terminating minutes-of-use by trunk group from the Traffic Routing reports in its VNXX analyses.

Q. PLEASE PROVIDE A DESCRIPTION OF HOW CROSS7 & BI CAPTURE THE USAGE DATA ON LIS TRUNKS?

A. There may be a number of SS7 messages that are signaled during the setup, connection, and conclusion of a completed call. Information is extracted from SS7 and enhanced with reference data, including the following:

- The originating telephone number (charged party number and/or calling party number)

- The "Common Language Location Identifier ("CLLI") of the originating switch at the end of the LIS trunk.
- The Access Customer Name Abbreviation ("ACNA") for that originating switch.
- The time and date that the call originated.
- The terminating telephone number.
- The CLLI of the terminating switch at the end of the LIS trunk.
- The ACNA associated with the terminating switch.
- The Local Routing Number if the terminating number was ported to another carrier.
- The time and date that the call was completed.
- The trunk identification for the LIS trunk that carried the call.
- The number of conversation minutes-of- use.

In the creation of the CroSS7/BI Traffic Routing reports that are used for Qwest's VNXX analyses, this information is summarized and sorted by jurisdiction and also by whether the call just transits Qwest's network.

Q. PLEASE DESCRIBE QWEST'S TUMS SYSTEM?

A. TUMS is an acronym that stands for Trunk Usage Measurement Set-Up. The TUMS system is a repository of information regarding the trunk groups utilizing SS7 signaling that interconnect Qwest with CLECs and WSPs and are monitored by CroSS7/BI.

Q. PLEASE BE MORE SPECIFIC ABOUT THE INFORMATION AVAILABLE IN

TUMS AND HOW THAT DATA IS USED IN THE VNXX ANALYSIS?

A. Information for new connects, augments or disconnected trunk groups are included in the TUMS database reflecting order activity. For Qwest's VNXX analysis, information is pulled from the "Trunk Group by LATA/ACNA" report option. This report option identifies each trunk group utilizing SS7 signaling for each CLEC or WSP within a LATA; and for each trunk group, the report includes information regarding its size (number of DS0 equivalent voice grade circuits), the CLLI of the Qwest switch, the CLLI of the point of interconnection between Qwest and the CLEC or WSP, the CLLI of the CLEC or WSP switch, the trunk group identifier and whether the trunk group is active or disconnected. The information regarding the CLLI for a CLEC's or WSP's switch also is available from Telcordia's LERG.

Q. PLEASE PROVIDE A DESCRIPTION OF HOW TUMS CAPTURES THE INFORMATION REGARDING THE TRUNK GROUPS INTERCONNECTING QWEST AND THE CLECS AND WSPS?

A. TUMS automates the loading of trunk data into the CroSS7/BI system for Automatic Message Accounting (AMA) recording purposes. The TUMS system utilizes existing Qwest systems to access the trunk service order and design data. As new trunk service orders are received and designed the TUMS database is updated with this data and that data is checked for validity.

Q. HOW DOES QWEST USE THE CROSS7/BI AND TUMS INFORMATION TO

CALCULATE THE AMOUNT OF VNXX TRAFFIC A CLEC IS GENERATING IN WASHINGTON?

A. Qwest's calculations of the amount of VNXX traffic is developed by identifying those trunk groups that may carry VNXX traffic and analyzing the originating and terminating Qwest Local/EAS minutes-of-use data from the CroSS7/BI Traffic Routing report. The identification of those trunk groups that may carry VNXX traffic is based on (1) a review of the CLLI locations of both the Qwest and CLEC switches for each LIS trunk group using SS7 signaling based on TUMS information and (2) determination of whether those two CLLIs are located within the same LCA based on information contained in Section 5.1.1.B, Local Exchange and Local Calling Area, of Qwest Corporation's Exchange and Network Services Catalog No. 2 in Washington.

Q. HOW DOES QWEST USE THIS INFORMATION TO DETERMINE IF A CLEC IS USING VNXX?

A. The first step of the VNXX methodology is to identify those LIS trunks using SS7 signaling that have the potential for carrying VNXX traffic. The universe of LIS trunks using SS7 signaling for each CLEC is available from TUMS. Based on the EAS or LCA information contained in Section 5.1.1.B. of Qwest Corporation's Exchange and Network Services Catalog No. 2 in Washington, a review is conducted for each trunk group to determine whether the CLLIs of the Qwest and CLEC switches are located within the same EAS area or LCA. The switch location for Level 3 corresponds with the terminating location of a call that is destined for a Level 3 ISP customer because the Level 3 modem

that received calls on behalf of Level 3's ISP customers were at all relevant times located at the Level 3 switch location. For the relevant time period, Pac-West maintained its modems in Tukwila, Washington or at a more distant switch location in California. Accordingly, the switch or modem location for Pac-West can also be used to determine the amount of VNXX traffic exchanged with Pac-West.

The second step of the VNXX methodology is to analyze the balance of originating and terminating Qwest local/EAS minutes-of-use exchanged on each of those trunks groups where the CLEC and Qwest switches are not within the same EAS area or LCA. The purpose of this step is to identify those trunk groups where Qwest EAS/Local minutes-of-use are out-of-balance, i.e. the traffic is disproportionately terminating to the CLEC, and quantify the associated VNXX minutes-of-use. If Qwest determines from the CroSS7/BI Traffic Routing report data that it terminates more Qwest EAS/Local minutes of use to the CLEC than the CLEC terminates to Qwest, the difference is calculated. If, based on the CroSS7/BI data, the CLEC terminates more Qwest EAS/Local minutes-of-use to Qwest than Qwest terminates to the CLEC, the difference is shown as zero.

The final step of the VNXX methodology is to calculate the percentage of suspected VNXX traffic. That percentage is calculated by summing the VNXX minutes-of-use identified as the difference in the second step above and dividing that sum by the total number of Qwest local/EAS minutes-of-use terminated to the CLEC for all CroSS7/BI monitored LIS trunk groups. So, on a hypothetical 1,000,000 minutes of use, where Step 2

identifies 670,000 minutes-of-use as VNXX, the VNXX percentage is 67%.

Q. WHAT IS QWEST TREATING AS THE ENDPOINT OF THE CALLS IN THIS METHODOLOGY?

A. In this methodology, Qwest is using the location of the modem or equivalent device as the endpoint. The modem receives the call from the dial-up caller in TDM and converts it to a packet-switched signal for transmission on the Internet.

Q. DURING THE COURSE OF THIS DOCKET HAS QWEST LEARNED THE ACTUAL PHYSICAL LOCATION OF THE LEVEL 3 AND PAC-WEST MODEMS?

A. Yes. Level 3 has indicated that the physical location of Level 3-owned modems is in Seattle, Washington and that these modems have been in place since 2004. In addition, Level 3 has stated that all Washington dial-up traffic was routed through Seattle. Attached as Exhibit WRE-2 is a traffic routing diagram that Level 3 attached to its response to Qwest data request 2.4.

Pac-West has stated that from 2000 through late 2007, Pac-West had modems and servers located in Tukwila, Washington. Pac-West had no modems, switches, and servers located in Washington from late 2007 through the end of 2009 (which is when the new ICA became effective). Since July 19, 2010 Pac-West had modems in place and functional in Bellingham, Seattle, and Tacoma, Washington. Pac-West has stated that all Washington

dial-up traffic was routed through the modems in Washington during the time period that the modems were located in Washington.

Q. WITH REGARD TO THE PERCENTAGE OF VNXX TRAFFIC, DID YOU TRY TO OBTAIN DATA FROM LEVEL 3 WHICH WOULD SHOW WHICH PORTION OF THE TOTAL TRAFFIC WAS VNXX?

A. Yes. Qwest's data request No. 5 asked Level 3 to identify the amount of traffic each month since October 2004 that originates and terminates in different local calling areas as defined by Qwest's local exchange tariff, but that is not rated as toll traffic due to the VNXX numbering assignment. The figures Level 3 provided were simply based on the VNXX percentage that Qwest has used to make reciprocal compensation payments to Level 3. In response to Qwest data request 2.1, Level 3 further explained its use of the Qwest percentage. Attached as Confidential Exhibit WRE-3 is copy of the Level 3 responses to Qwest data requests 5, 2.1 and 3.2.

Q. WHAT DO YOU CONCLUDE FROM THAT?

A. I conclude that Level 3 is apparently in agreement with Qwest's calculations of VNXX traffic. It should be noted that Qwest is still attempting to reconcile VNXX minutes provided by Level 3 in response to Qwest discovery. The discovery response was not received until August 31, 2012.

Q. WITH REGARD TO THE PERCENTAGE OF VNXX TRAFFIC, DID YOU TRY

TO OBTAIN DATA FROM PAC-WEST WHICH WOULD SHOW WHICH PORTION OF THE TOTAL TRAFFIC WAS VNXX?

A. Yes, we asked Pac-West multiple data request questions that were designed to allow us to check our calculations against Pac-West data. Those requests, and the responses, are attached as Confidential Exhibit WRE-4, which includes some confidential attachments. We specifically requested the number of terminating minutes for which Pac-West billed Qwest during the period at issue, and asked for traffic studies showing the amount of local traffic and the amount of VNXX traffic.

Q. WHAT INFORMATION DID YOU RECEIVE FROM PAC-WEST?

A. Pac-West sent us a spreadsheet with some hard-coded numbers that appear, based on the transmittal e-mail, to be total billed minutes, or total minutes that Pac-West received from Qwest. Exhibit WRE-4C, pages 7 and 8 are a sample of the data provided in mid-August, while page 11 shows a date provided at the end of August.

Q. DOES THIS INFORMATION HELP YOU AT ALL IN TERMS OF DETERMINING THE AMOUNT OF VNXX TRAFFIC?

A. Not really. First, the total minutes received from Qwest is not necessarily relevant, because any transit traffic from a originating third party that transits through Qwest's network and terminates to Pac-West should be excluded. Even assuming that was done, utilizing the total minutes, without additional information, is of little value. This data does not show the physical location of either the originating or terminating customer, which is necessary to

determine VNXX traffic.

Q. WHAT DOES THIS TELL YOU ABOUT THE EXTENT OF VNXX TRAFFIC DURING THE 2004-2009 TIME PERIOD?

A. The Pac-West data confirms the information we used regarding the terminating location of the calls in our calculation of VNXX, so there was no new information provided. Using our information regarding the physical location of the originating caller, a large percentage of calls from 2004 through the end of 2007 would be intrastate VNXX calls. And all calls from late 2007 – November 2009 would be VNXX because they terminated outside the state of Washington, even though every Washington caller dialed a local number to reach the Pac-West ISPs.

Q. DID PAC-WEST PROVIDE ANY TRAFFIC STUDIES IN RESPONSE TO QWEST'S DATA REQUEST 11, SHOWING VNXX AND LOCAL TRAFFIC, AND AN EXPLANATION OF THE ASSUMPTIONS USED IN THE STUDIES?

A. No, they did not.

Q. WHAT DO YOU CONCLUDE FROM THAT?

A. I conclude that either Pac-West no longer has the data, or they never retained this data. Either way, Qwest's calculation of VNXX minutes appears to be the only reliable calculation.

Q. DID PAC-WEST OFFER TO PROVIDE ANY OTHER DATA?

A. Yes. Pac-West offered to provide CDRs, (call detail records) but cautioned that a single month of CDRs were millions of megs and stated that Qwest would have to provide a site to upload the data.

Q. WHY DIDN'T QWEST DO THAT?

A. Qwest has explained to Pac-West that CDRs do not contain information on the physical location of the originating and terminating callers. CDRs, as the name implies, contain records regarding the details of the call. The originating and terminating phone numbers are in the CDRs, but since the VNXX numbering is in place precisely to make interexchange calls look like local calls, the CDRs would have simply implied that all of the traffic was local (based on the to/from telephone numbers) and thus, would not have provided helpful information.

Q. DID QWEST PROVIDE TRAFFIC INFORMATION TO PAC-WEST?

A. Yes, Pac-West requested Qwest's traffic studies in May of this year, and Qwest provided a significant amount of data regarding Qwest's VNXX calculations.

V. REFUND OF PREVIOUSLY PAID NON-LOCAL RECIPROCAL COMPENSATION

Q. YOU NOTED EARLIER THAT QWEST RETROACTIVELY PAID LEVEL 3 RECIPROCAL COMPENSATION PLUS INTEREST. WHAT WAS THE DOLLAR AMOUNT OF THE RETROACTIVE PAYMENTS TO LEVEL 3?

A. As a result of the Commission's February 2006 order, in May 2006 Qwest made a **BEGIN REDACTED** XXXXXXX **END REDACTED** lump sum payment to Level 3 for retroactive reciprocal compensation, plus interest, for the relevant periods from November 2004 through March 2006. In addition to reciprocal compensation related to VNXX traffic, this payment included amounts related to the Commission's ruling as to the effective date of the FCC's Core Forbearance Order. Confidential Exhibit WRE-5 details the amount of the payment that was related to VNXX traffic.

Q. IN ADDITION TO THE RETROACTIVE PAYMENTS, ON A GOING FORWARD BASIS, HAS QWEST BEEN PAYING LEVEL 3 RECIPROCAL COMPENSATION ON THE VNXX TRAFFIC?

A. Yes. Confidential Exhibit WRE-6 details the VNXX reciprocal compensation amounts Qwest has paid Level 3 under protest from April 2006 until April 2007. These VNXX amounts were calculated using the methodology discussed in the previous section to determine what percentage of the total terminating traffic was VNXX traffic. The exhibit also includes the retroactive VNXX payment made to Level 3 and calculated interest amounts. The interest calculations use the same interest percentage used in the calculation of the retroactive amounts paid to Level 3 after the Commission's February 2006 order. The **BEGIN REDACTED** XXXXXXXXXXX **END REDACTED** amount on

Confidential Exhibit WRE-6 represents the amount Qwest has paid Level 3 for VNXX traffic plus interest and is the amount that should be refunded to Qwest.

Q. FOLLOWING THE APRIL 2007 U.S. DISTRICT COURT ORDER, DID QWEST AGAIN WITHOLD VNXX PAYMENTS TO LEVEL 3?

A. Yes. Qwest again began withholding VNXX payments starting in May 2007 up until the new interconnection agreement took effect in August 2007. Confidential Exhibit WRE-7 details the additional amounts which were withheld.

Q. QWEST ALSO MADE RETROACTIVE PAYMENTS TO PAC-WEST. WHAT WAS THE DOLLAR AMOUNT OF THE RETROACTIVE PAYMENTS TO PAC-WEST?

A. Qwest retroactively paid Pac-West **BEGIN REDACTED** XXXXXXXX **END REDACTED** for reciprocal compensation related to VNXX traffic for the relevant periods from February 2004 through January 2006.

Q. ON A GOING FORWARD BASIS HAS QWEST ALSO BEEN PAYING PAC-WEST RECIPROCAL COMPENSATION ON THE VNXX TRAFFIC?

A. Confidential Exhibit WRE-8 provides the VNXX reciprocal compensation amounts paid, under protest, to Pac-West for VNXX traffic from February 2006 until April 2007. These VNXX amounts were calculated using the methodology discussed in the previous section to determine what percentage of the total terminating traffic was VNXX traffic. The

exhibit also includes the retroactive payment made to Pac-West and calculated interest amounts. The interest calculations use the same interest percentage used in the calculation of the retroactive amounts paid to Pac-West after the Commission's February 2006 order. The **BEGIN REDACTED** XXXXXXXXXX **END REDACTED** that Qwest has paid Pac-West for VNXX traffic represents dollars which should be returned to Qwest.

Q, CONFIDENTIAL EXHIBIT WRE-8 ALSO SHOWS DOLLAR CALCULATIONS FOR PERIODS SUBSEQUENT TO APRIL 2007. WHAT DO THESE AMOUNTS REPRESENT?

A. From May 2007 through the end of December 2007 Qwest withheld VNXX dollars from Pac-West based upon a frozen VNXX percentage. Qwest has subsequently calculated monthly VNXX percentages based on each month's traffic. For the period May 2007 through December 2007, the revised percentages turned out to be lower than the frozen percentage that Qwest used to withhold VNXX dollars. As a result, Qwest withheld too many dollars for this time period. The negative amounts for May 2007 through December 2007 reflect a correction of this over-withholding. The second page of Confidential Exhibit WRE-8 details the calculation of the over-withholding. The total dollars on Confidential Exhibit WRE-8 reflect the correction of the over-withheld amounts.

Q. DID QWEST BEGIN WITHOLDING ADDITIONAL PAYMENTS FROM PAC-WEST BEGINNING IN MAY 2008?

A. Yes. When it was discovered that Pac-West no longer had a switch, modem or server in

the state, Qwest ceased making payments for all ISP traffic to Pac-West. Confidential Exhibit WRE-9 details the VNXX amounts that Qwest withheld from Pac-West until a new interconnection agreement was entered into in December of 2009.

Q. WHAT IS THE IMPLICATION OF THE COMMISSION'S NOVEMBER 14, 2011 ORDER AND ITS ORDER IN THE VNXX COMPLAINT DOCKET ON THESE VNXX-RELATED RECIPROCAL COMPENSATION AMOUNTS THAT QWEST HAS PAID TO LEVEL 3 AND PAC-WEST?

A. Based on the Commission's findings that reciprocal compensation does not apply to interexchange calls and that VNXX calls are interexchange calls, all of the VNXX-related reciprocal compensation amounts and interest detailed in Confidential Exhibits WRE-6 and WRE-8 should be refunded to Qwest.

VI. APPROPRIATE COMPENSATION FOR NON-LOCAL TRAFFIC

Q. IN THE PREVIOUS SECTION YOU DISCUSSED THE FACT THAT RECIPROCAL COMPENSATION DOES NOT APPLY TO VNXX CALLS. IS THERE SOME FORM OF COMPENSATION THAT DOES APPLY TO THESE CALLS?

A. Yes. Earlier in this testimony I discussed the separate compensation regimes for local traffic exchanged between carriers (reciprocal compensation) and interexchange traffic

exchanged between carriers (switched access). Since the Commission has determined that VNXX calls are interexchange in nature, the switched access compensation rules should apply. This is the logical outcome of the Commission's finding in its November 14, 2011 order that this traffic meets the definition of IntraLATA Toll traffic.

Q. WHY IS INTEREXCHANGE ACCESS COMPENSATION APPROPRIATE FOR VNXX?

A. Through the use of VNXX Level 3 and Pac-West create the interexchange link between the originating caller and the ISP and therefore function as IXCs. With VNXX traffic, Level 3 and Pac-West require Qwest to originate and transport interexchange traffic, without compensation, from multiple LCAs to distant LCAs. These CLECs do not pay Qwest the access charges that would otherwise be due on interexchange calls, nor do they purchase dedicated transport to route these calls. This creates financial consequences for Qwest in that it erodes the structure of financial support that interexchange access charges provide to local rates, and distorts the interexchange carrier compensation scheme that has been in place since 1984 (and in other forms since the 1940s).

Q. DO THE INTERCONNECTION AGREEMENTS BETWEEN LEVEL 3 AND QWEST PROVIDE FOR THE PAYMENT OF SWITCHED ACCESS CHARGES FOR INTRALATA TOLL TRAFFIC?

A. Yes. There are a number of references in the ICA to IntraLATA toll traffic. The ICA provides in Sections 7.2.1.2 and 7.2.1.2.2 that "[t]he traffic types to be exchanged under

this Agreement include: …IntraLATA Toll Exchange Access (IntraLATA Toll) traffic as defined in this Agreement."

The ICA also refers to and incorporates the rates from Qwest's tariffs. Section 7.3.1 states that, "Where either Party acts as an IntraLATA Toll provider, each Party shall bill the other the appropriate charges pursuant to its respective Tariff or Price Lists."

The Table of Contents of the ICA identifies Exhibit A as the document containing "Washington Rates." Section 7 of the 2004 Exhibit A rate sheet entitled "Interconnection" provides in Section 7.11 that for IntraLATA Toll, the Recurring, Recurring Per Mile and Nonrecurring rates that are applicable are contained in "Qwest's Washington Access Service Tariff."

Q. DO THE INTERCONNECTION AGREEMENTS BETWEEN PAC-WEST AND QWEST PROVIDE FOR THE PAYMENT OF SWITCHED ACCESS CHARGES FOR INTRALATA TOLL TRAFFIC?

A. Yes. There are a number of references in the Pac-West ICA to IntraLATA toll traffic. The ICA provides in Section (C)2.1.2 and (C)2.1.2.2 that "The traffic types to be exchanged under this Agreement include: …Exchange Access (IntraLATA Toll) traffic as defined in this Agreement."

Second, the Pac-West ICA refers to and incorporates the rates from Qwest's tariffs. Section (C)2.3.6 of the Pac-West ICA provides as follows:

> Applicable USW Switched Access Tariff rates apply to Exchange Access (IntraLATA Toll) traffic routed to an access tandem, or directly to an end office. Relevant rate elements could include Tandem Switching, Tandem Transmission, Interconnection Charge, Local Switching and Carrier Common Line, as appropriate.

The rate sheet contained in Part H(2) of the Pac-West ICA also refers to and incorporates the rates from the Qwest Switched Access Tariffs for IntraLATA toll. The first column in part H(2) identifies IntraLATA Toll as a category of traffic. The second column in part H(2) in turn provides that the rates applicable to IntraLATA Toll shall be those set forth in "USW's Switched Access Tariff."

Q. DO THE VNXX TRAFFIC ARRANGEMENTS DIRECTLY CORRESPOND TO SPECIFIC SWITCHED ACCESS PRODUCT OFFERINGS DESCRIBED IN QWEST'S SWITCHED ACCESS TARIFF?

A. They do in the sense that VNXX arrangements and the specific services described in the switched access tariff all provide for interexchange access traffic. While one can argue as to whether the specific language in the tariff is a perfect match with the configuration of a VNXX call, any mismatch is a result of the fact that Level 3 and Pac-West did not order switched access services out of the tariff, but chose instead to conceal the true interexchange nature of the VNXX traffic to avoid access charges. I would also note that in both the Level 3 (Section 4.67) and Pac-West (Section (A)2.44) interconnection agreements there is language that defines switched access services as those services listed in the tariff and "their successors or similar Switched Access Services."

Q. HAS QWEST CALCULATED THE AMOUNT OF SWITCHED ACCESS COMPENSATION THAT IT IS OWED BY LEVEL 3 AND PAC WEST?

A. Yes. Attached as Confidential Exhibits WRE-10 and WRE-11 are the switched access calculations for Level 3 and Pac-West, respectively. Based on these calculations, Level 3 has avoided over **BEGIN REDACTED** XXXXXXXXXXX **END REDACTED** in switched access charges as a result of its VNXX numbering scheme. Pac-West has avoided **BEGIN REDACTED** XXXXXXXXXXXX **END REDACTED** in switched access charges as a result of its VNXX numbering scheme.

Q. PLEASE DESCRIBE HOW THESE SWITCHED ACCESS NUMBERS WERE CALCULATED.

A. The starting point in the calculations was the VNXX minutes identified in the Qwest traffic study. A determination was then made as to how many of the minutes were interstate and how many were intrastate. This determination was based on the switch location for each carrier since the switch locations corresponded with the modem locations for each of these carriers for all or part of the time period at issue. A composite interstate switched access rate was then applied to each company's interstate minutes to arrive at the interstate switched access amount. Similarly, the intrastate switched access amount is calculated by applying a composite intrastate switched access rate to each company's intrastate minutes.

Q. HOW WERE THE COMPOSITE SWITCHED ACCESS RATES DEVELOPED?

A. The composite rates were calculated by taking total interstate or intrastate billed switched access revenues for the state of Washington and dividing them by the interstate or intrastate switched access minutes for the state of Washington. The resulting rate thus captures both the traffic sensitive and non-traffic sensitive switched access rate elements. A separate rate was calculated for each year, based on that year's billed switched access revenues and minutes.

Q. WHY WAS IT NECESSARY TO USE A STATEWIDE AVERAGE RATE RATHER THAN USING AN ACTUAL RATE FOR EACH CARRIER?

A. Because this traffic was routed over local interconnection trunks, rather than over switched access trunks, Qwest lacks the ability to capture the proper call record information and apply the switched access rates to the traffic. This was an issue in the most recent Level 3 Arbitration, with Level 3 arguing that it should be allowed to route switched access traffic over local interconnection trunks. Qwest took the position that switched access traffic must be routed over switched access trunks because local interconnection trunks lack the mechanized billing processes necessary to apply the individual switched access rate elements. The Commission agreed with Qwest's position and did not allow switched access traffic to be routed over the local interconnection trunks.[6]

[6] **(***Final Order Denying Level 3's Petition for Review; Granting in Part and Denying in Part Qwest's Petition for Review; Affirming in Part and Modifying in Part Arbitrator's Report and Decision.* UT-063006. Order 12. Washington Utilities and Transportation Commission. June 7, 2007.)

Q. SHOULD THIS COMMISSION DETERMINE THAT SWITCHED ACCESS COMPENSATION IS NOT OWED ON THE VNXX TRAFFIC, IS THERE ANOTHER FORM OF COMPENSATION THAT WOULD BE APPROPRIATE?

A. Yes. As I noted earlier, one of the problems of VNXX arrangements is that it causes Qwest to originate and transport interexchange traffic, without compensation, from multiple LCAs to distant LCAs. If this Commission decides that Level 3 and Pac-West are not liable for the switched access charges they have intentionally avoided for years, at the very least Qwest believes that it should be compensated for the transport of these calls at tariffed rates.

Q. IS THIS TRANSPORT COMPENSATION CONSISTENT WITH PREVIOUS WASHINGTON COMMISSION ORDERS?

A. Yes. As was noted earlier, in the VNXX Complaint Docket, the Commission found the following:

> Bill and keep is a reasonable methodology to address intercarrier compensation for the exchange of VNXX traffic at fair, just and reasonable rates, provided that the CLEC bears the cost of transporting VNXX calls, except where it has built its own transport facilities, has procured alternative facilities from a third party, or uses special access services for transporting VNXX calls to and from a local calling area where it does not have switching services. (Conclusions of Law 19).

Pricing the VNXX transport at tariffed rates is entirely consistent with this previous Commission finding.

Q. ARE YOU AWARE OF ANOTHER STATE COMMISSION THAT HAS ORDERED THIS TYPE OF COMPENSATION TREATMENT FOR VNXX TRAFFIC?

A. Yes. VNXX was an issue in the 2006 arbitration between Qwest and Level 3 in Oregon. The Administrative Law Judge found, and the Commission agreed, that Qwest was entitled to compensation for this traffic at tariffed rates. The Arbitrator's Decision stated:

> For this reason, the Commission should allow a limited exception to its existing ban on VNXX arrangements, provided the following conditions are met: 1. Level 3 may make VNXX number assignments only for the purpose of assigning numbers to ISP customers to facilitate the exchange of dial-up ISP-bound traffic; and
>
> 2. Level 3 assumes responsibility for paying all of the costs associated with transporting VNXX-routed ISP-bound traffic from its primary and secondary POIs in Oregon to its media gateway. This traffic is both interexchange and interstate in nature. The compensation paid by Level 3 to Qwest should be based on the transport rates set forth in applicable Qwest tariffs, rather than the TELRIC rates proposed by Level 3.
>
> The net effect of these conditions is similar to the approach adopted by the California PUC and upheld by the Ninth Circuit in *Peevey*. Level 3 will be allowed to continue providing service to ISPs using its advanced network architecture, but Qwest will not have to absorb the cost of transporting interexchange VNXX traffic, nor will it be limited to charging lower TELRIC rates reserved for local interconnection and exchange of traffic.[7]

Q. HAS QWEST CALCULATED THE DOLLAR IMPACTS OF APPLYING THIS SAME METHODOLOGY TO THE LEVEL 3 AND PAC-WEST TRANSPORT IN THE STATE OF WASHINGTON?

A. Yes. Attached as Confidential Exhibits WRE-12 and WRE-13 are the calculations of

[7] *Arbitrator's Decision* ARB665 Oregon Public Utilities Commission. February 13, 2007. pp. 27-28.

VNXX transport at tariffed rates. The calculations are based on a re-rating of the VNXX transport which today, and throughout the time period at issue here, has been priced using a Total Element Long Run Incremental Cost ("TELRIC") rates using a Relative Use Factor. The calculations in Confidential Exhibits WRE-12 and WRE-13 apply the special access rates from Qwest's Washington and FCC tariffs in place of the TELRIC-based rates. The calculations as detailed in the exhibit were done by Universal Service Order Code ("USOC") for the relevant Billing Account Numbers ("BAN") for each company. Using this methodology, the VNXX transport for the relevant time period is **BEGIN REDACTED** XXXXXXXXXX **END REDACTED** for Level 3 and **BEGIN REDACTED** XXXXXXXXXX **END REDACTED** for Pac-West.

VII. SUMMARY/CONCLUSION

Q. PLEASE SUMMARIZE YOUR TESTIMONY.

A. The decisions that this Commission has issued in the VNXX complaint docket and in Order No. 12 in this docket provide the road map for Qwest's proposals in this proceeding. Given that the Commission has determined that VNXX calls are non-local in nature and are, therefore, not subject to the FCC's reciprocal compensation rules, Level 3 and Pac-West must refund the reciprocal compensation amounts that Qwest had previously been ordered to pay, plus interest. Further, given that this traffic has now been determined to be IntraLATA toll traffic, Level 3 and Pac-West should be required to compensate Qwest for

this traffic using the tariffed interexchange rates that the carriers have intentionally avoided for several years as a result of their use of VNXX arrangements. As was noted earlier, in the VNXX Complaint docket the Commission found that "VNXX traffic is lawful under applicable state law if appropriate compensation is paid for the exchange of such traffic between carriers." Qwest's proposals ensure that the appropriate compensation is paid for the VNXX traffic that has been exchanged with Level 3 and Pac-West.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes, it does.