



March 31, 2005

VIA FACSIMILE & OVERNIGHT DELIVERY

Mr. Dan Hult
Director, Carrier Relations
Qwest Wholesale Markets
1314 Douglas on the Mall
Room 1330
Omaha, NE 68102

Re: Request to Amend Agreements Pursuant to Core Order

Dear Mr. Hult:

On or about December 13, 2004 Level 3 Communications, LLC ("Level 3") notified Qwest Corporation ("Qwest") that the parties should revise their interconnection agreements in Arizona, Idaho, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming to reflect the fact that effective October 8, 2004, the Federal Communications Commission ("FCC") lifted caps and new markets exclusions restrictions on intercarrier compensation for ISP-bound traffic.¹

Level 3 notes that on January 27, 2005 Qwest notified Level 3 that it was triggering dispute resolution on this and related matters, including that Qwest would longer pay reciprocal compensation on certain classes of ISP-bound traffic. Since that time Qwest has further notified Level 3 of Qwest's withholding compensation in all states where the companies exchange traffic.

¹ *Petition of Core Communications, Inc. For Forbearance Under 47 U.S.C. § 160(C) From Application of The ISP Remand Order*, 19 FCC Rcd. 20,179, 20,189 (2004) ("IT IS FURTHER ORDERED, pursuant to section 10 of the Communications Act of 1934, 47 U.S.C. 160, and section 1.103(a), that the Commission's forbearance decision SHALL BE EFFECTIVE on October 8, 2004." (emphasis in original)).

Pursuant to Section 11 of Part A of the interconnection agreements² between Level 3 and Qwest and Section 5 of the ISP-Bound Traffic Amendment³ in each of the states named above, Level 3 demands that Qwest update all contracts according to the relevant change in law provisions. Accordingly, and for avoidance of any doubt, Level 3 reasserts its prior notifications on change of law and further provides an amendment specific to the FCC's Core Communications Order. A copy of that proposed amendment is attached.

Level 3 reiterates that Qwest's unilateral refusal to pay compensation for ISP Bound traffic constitutes a material and substantial breach of the agreements between Qwest and Level 3, and a violation of federal law.

We look forward to completing the amendment process as expeditiously as possible. Should you have any questions, please feel free to contact me.

Sincerely,



Andrea L. Gavalas
Vice President, Interconnection Services
Level 3 Communications, LLC

cc: Larry Christensen, Director, Interconnection Agreements, Qwest Corporation
Erik Cecil, Regulatory Counsel, Level 3 Communications, LLC

² See, e.g., *In the matter of the Joint Application for Approval of an Adoption of Agreement for Local Wireline Interconnection between Level 3 Communications, LLC and Qwest Corporation*, Docket No. P57733,421/IC-01-321 (March 6, 2001) (the "Agreement") (Part A Section 11 provides in part that "The parties agree to seek expedited resolution by the Commission, and shall request that resolution occur in no event later than sixty days (60) from the date of the submission of such dispute. If the Commission appoints an expert(s) or other facilitator(s) to assist in decision making, each Party shall pay half of the fees and expenses so incurred.").

³ See, e.g., *In the matter of the Joint Application for Approval of the Agreement to Amend an Interconnection Agreement between Qwest Corporation and Level 3 Communications, LLC*, Docket No. P57733,421/IC-02-1972 (November 22, 2001) ("*ISP-Bound Traffic Amendment*") (Section 5 provides in part that "The provisions in the Agreement and this Amendment are based, in large part, on the existing state of law and interpretations thereof, as of the date hereof (the Existing Rules). To the extent that the Existing Rules are changed, vacated, dismissed, stayed or modified, then the Agreement and all Amendments and all contracts adopting all or party of the Agreement shall be amended to reflect such modification or change of the Existing Rules. Where the Parties fail to agree upon such an amendment within sixty (60) days from the effective date of the modification or change of the Existing Rules, it shall be resolved in accordance with the Dispute Resolution provision of the Agreement.").

**First Amendment to the Interconnection Agreement
Between Qwest Corporation and
Level 3 Communications, LLC. for the State of _____**

This amendment (“Amendment”) amends the Interconnection Agreement for the State of Minnesota between Qwest Corporation (“Qwest”) and Level 3 Communications, LLC (“Level 3”). Qwest and Level 3 may be referred to individually as “Party”, or collectively as the “Parties”.

Recitals

WHEREAS, Qwest and Level 3 entered into interconnection agreements pursuant to Sections 251 and 252 of the Communications Act of 1934, as amended (“the Act”) which was approved by the Minnesota Public Utilities Commission (“Commission”) on or about April 20, 2001, as referenced in Docket No. P-5733,421/IC-01-321 (hereinafter the “Agreement”); and

WHEREAS, the Federal Communications Commission (“FCC”) issued an Order, in WC Docket No. 03-171 effective October 18, 2004 (*Core Order*)¹; and

WHEREAS, the Parties wish to amend the Agreement to reflect the aforementioned order under the terms and conditions contained herein.

AGREEMENT

NOW THEREFORE, for and in consideration of the promises and covenants contained in this Amendment, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree to the language as follows in lieu of existing contract language:

1. Definitions

For purposes of this Amendment, the following definitions apply:

- 1.1. New Markets Rule – In the 2001 ISP Remand Order the FCC concluded that different interim intercarrier compensation rules should apply if two carriers were not exchanging traffic pursuant to an interconnection agreement prior to the adoption of the FCC’s ISP Remand Order.² This rule applied, for example, when a new carrier entered a market or an existing carrier expanded into a market it

¹ *Petition of Core Communications, Inc. For Forbearance Under 47 U.S.C. § 160(C) From Application of The ISP Remand Order*, 19 FCC Rcd. 20,179, 20,189 (2004).

² *In The Matter Of Implementation Of The Local Competition Provisions In The Telecommunications Act Of 1996, Intercarrier Compensation for ISP-Bound Traffic, Order on Remand and Report and Order*, 2001 WL 455869 (F.C.C.), 16 FCC Rcd. 9151 (2001).

previously had not served. In the Core Order, effective October 8, 2004, the FCC has removed this restriction.

- 1.2. Growth Caps - In the ISP Remand Order, the FCC also imposed a cap on total ISP-bound minutes for which a LEC could receive compensation equal to the total ISP-bound minutes for which the LEC was previously entitled to compensation, plus a 10 percent growth factor.

2.0 ISP-Bound Traffic

- 2.1 The Parties shall exchange ISP-bound traffic pursuant to the compensation mechanism set forth in the FCC *Core Order*.
- 2.2 Compensation for ISP-bound traffic will be at the rate of \$0.0007 per minute of without limitation as to the number of MOU ("minutes of use") or whether the MOU are generated in "new markets" as that term has been defined by the FCC.
- 2.3 Notwithstanding any other term or provision of the Agreement, and for the removal of any doubt, it is the Parties intention to eliminate minute of use growth caps and new market restrictions, as applicable, for intercarrier compensation between the Parties for Information Access Traffic.

3.0 Effective Date

3. This Amendment shall be deemed effective upon approval by the Commission; however Qwest will adopt the rate-affecting provisions for ISP-bound traffic as of October 8, 2004, the effective date of the Order.

This Amendment constitutes the full and entire understanding and agreement between the Parties with regard to the subject of this Amendment and supersedes any prior understandings, agreements, amendments or representations by or between the Parties, written or oral, to the extent they relate in any way to the subject of this Amendment. The Parties intending to be legally bound have executed this Amendment as of the dates set forth below, in multiple counterparts, each of which is deemed an original, but all of which shall constitute one and the same instrument.

Level 3 Communications, LLC

Signature: _____

Date: _____

Title: _____

Qwest Corporation

Signature: _____
Date: _____
Title: _____