

July 14, 2005

BY HAND DELIVERY

Ms. Julie Orchard
Utah Public Service Commission
Heber M. Wells Building, 4th Floor
160 East 300 South
Salt Lake City, UT 84111

Re: Docket No. 05-2266-01 – Reply of Level 3 Communications, LLC to Qwest Corporation’s Counterclaim

Dear Ms. Orchard:

Enclosed please find the following: an original and 5 copies of the *Reply of Level 3 Communications, LLC to Qwest Corporation’s Counterclaim* and a disk with an electronic version of the filing. We have also e-mailed a copy of the filing to lmathie@utah.gov.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Parsons Behle & Latimer

Vicki M. Baldwin

VMB/gm
Enclosures

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BEFORE THE UTAH PUBLIC SERVICE COMMISSION

In the Matter of the Petition of Level 3
Communications, LLC for Enforcement of the
Interconnection Agreement Between Qwest and
Level 3

**REPLY OF LEVEL 3
COMMUNICATIONS, LLC TO QWEST
CORPORATION'S COUNTERCLAIM**

Docket No. 05-2266-01

Level 3 Communications, LLC ("Level 3"), pursuant to the provisions of Utah Code Ann. § 63-46b-6 and R746-100-3, hereby replies as follows to Qwest Corporation's ("Qwest") Counterclaim Against Level 3 for Enforcement of Interconnection Agreement, which was filed on July 6, 2005:

REPLY TO COUNTERCLAIM

1. Level 3 admits that the amount in dispute occurred in the dispute period that was governed by the terms of the Old Agreement. However, Level 3 denies that the subject of Level 3's Petition against Qwest involves only the Old Agreement and states that it also includes the Commission's Order concerning the New Agreement and the relevant terms of the New Agreement as those terms are defined in Level 3's Petition. Level 3 admits the remaining allegations of paragraph 1 of Qwest's counterclaim.

2. Level 3 admits the allegations in paragraph 2.

3. Level 3 admits that Qwest took the position that pursuant to paragraph 1.3.1 of the SPOP Amendment to the Old Agreement, paragraph 5.1.2.4 of the Old Agreement, and other provisions of the Old Agreement, Level 3 was responsible for a portion of Direct Trunked Transport (“DTT”) provided by Qwest. Level 3 denies that there is any language in either of these sections of the Old Agreement that supports Qwest’s position that it may collect money for facilities on its side of the Point of Interconnection (“POI”) that carried traffic originated by Qwest end-users. Level 3 denies that any prior decisions of the Utah Commission that were not reduced to writing in the Old Agreement are relevant to an accurate interpretation of the language contained in the Old Agreement. Level 3 also denies that Level 3 had responsibility for DTT as alleged by Qwest, denies that the rate that Qwest attempted to charge Level 3 was the “proper rate,” and denies the remaining allegations of paragraph 3. Level 3 admits that during the dispute period all or virtually all of the traffic between the parties was originated by Qwest end-users and was terminated to Internet Service Provider (“ISP”) customers of Level 3. Level 3 denies that this fact provides any basis for Qwest’s charges according to the terms of the Old Agreement.

4. Level 3 admits that Qwest billed Level 3 on a monthly basis for DTT, but denies the remaining allegations in paragraph 4.

5. Level 3 admits the allegations in paragraph 5.

6. Level 3 admits the allegations in paragraph 6.

7. Level 3 denies that the Commission’s consideration and decision with respect to entirely new and different language in the New Agreement applies with equal force and effect to

the Old Agreement that contained no language whatsoever excluding ISP-bound traffic from the relative use calculation. Level 3 denies any remaining allegations of paragraph 7.

8. Because there is no language excluding ISP-bound traffic from Qwest's use of the facilities in question in the Old Agreement, Level 3 denies the allegations in paragraph 8.

9. Level 3 admits the allegations of paragraph 9.

10. Level 3 denies the allegations of paragraph 10.

GENERAL DENIAL

Level 3 denies each and every allegation if not expressly admitted above.

AFFIRMATIVE DEFENSES

1. Qwest's Counterclaim fails to state a claim on which relief can be granted.

2. Level 3 asserts as a defense to the Counterclaim, all of the claims stated in its Petition.

3. Without conceding that any amount is due from Level 3 to Qwest, the amount of relief requested by Qwest is subject to an offset equivalent to the amount by which Qwest has overcharged Level 3 for DTT facilities on the Qwest side of the POI.

4. The amount that Qwest seeks to recover is not authorized under state or federal law.

5. Each claim alleged in the Counterclaim is barred, in whole or in part, because any recovery by Qwest would result in its unjust enrichment.

6. Level 3 has or may have additional affirmative defenses that are not yet known to it, but which may become known through discovery. Level 3 asserts each and every affirmative defense as it may be ascertained through future discovery in this action.

WHEREFORE Level 3 respectfully requests that the Commission deny relief on Qwest's Counterclaim and that the Counterclaim be dismissed with prejudice.

DATED this ____ day of July, 2005.

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CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of July, 2005, I caused a true and correct copy of the foregoing **REPLY OF LEVEL 3 COMMUNICATIONS, LLC TO QWEST CORPORATION'S COUNTERCLAIM** to be sent in the following manner:

Via Hand Delivery

Ted D. Smith
Stoel Rives
201 South Main Street, Suite 1100
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Via Hand Delivery

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