



BEFORE THE ARIZONA CORPORATION COMMISSION

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- JEFF HATCH-MILLER**
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Commissioner
- MIKE GLEASON**
Commissioner
- KRISTIN MAYES**
Commissioner

2006 MAY 16 P 3:02
AZ CORP COMMISSION
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IN THE MATTER OF THE FORMAL
COMPLAINT OF PAC-WEST TELECOMM
SEEKING ENFORCEMENT OF THE
INTERCONNECTION AGREEMENT
BETWEEN PAC-WEST TELECOMM AND
QWEST CORPORATION

DOCKET NOS. T-01051B-05-0495
T-03693A-05-0495
**QWEST'S REPLY TO
SUPPLEMENTAL BRIEF
OF PAC-WEST TELECOM**

In its Supplemental Brief filed on May 10, 2006, Pac-West went far outside of the scope of the Administrative Law Judge's request that the parties provide supplemental briefing regarding *Global NAPs v. Verizon New England* cited by Qwest Corporation ("Qwest") in its Seventh Filing of Supplemental Authority. Pac-West did so by raising arguments based on an Oregon PUC proceeding opened in 2002 in Docket UM 1058, investigating VNXX (the "Oregon VNXX Investigation"). Pac-West Supplemental Brief, at 5-6; Exhibits 1 and 2. From the Oregon VNXX Investigation Pac-West makes unsubstantiated arguments about the "course of performance" by Qwest. Pac-West also went outside the scope of the ALJ's request by interpreting the conclusions of the Arbitration Ruling issued by Arbitrator John Antonuk in the 2004 arbitration between the parties (AAA Case #77Y181-00385-02, JAG Case No. 221368, which was attached to Pac-West's Complaint as Exhibit C), (the "2004 Arbitration Ruling"). Pac-West attempts to leave the impression that Arbitrator Antonuk ruled on the issue of VNXX-delivered ISP traffic, when that clearly was not the case. Because Pac-West has raised new

1 arguments and issues in its Supplemental Brief, and has badly contorted the scope of the 2004
2 Arbitration Ruling, Qwest is compelled to file this Reply Brief.

3
4 **1. Pac-West's References to the Oregon PUC Docket UM-1058, Do Not Prove Pac-**
5 **West's Interpretation of the ISP Amendment**

6
7 Pac-West brings up certain public records from the Oregon Commission's Investigation
8 into the Use of Virtual NPA/NXX Calling Patterns, (Ore. PUC, UM 1058) (the "Oregon VNXX
9 Investigation.") Pac-West Supplemental Brief at 5-6. If the purpose for Pac-West's filing of
10 these orders is to leave the impression that the Oregon Commission approved VNXX routing in
11 that investigation, Pac-West is wrong. The Oregon Commission ultimately closed the Oregon
12 VNXX Investigation, concluding that a generic docket was not a suitable means for dealing with
13 the issue of Virtual NPA/NXX usage, and that complaints or arbitrations would be the
14 appropriate means for addressing allegations that a carrier was improperly offering VNXX
15 services. Ore. PUC Order No. 04-704, UM 1058, Dec. 8, 2004, Attached hereto as Exhibit 1.
16 But since the Oregon Commission closed Docket UM 1058, the issue of VNXX has been
17 addressed in three separate dockets in that state, one of them a complaint docket brought by Pac-
18 West. In the Oregon Pac-West case, the issue related to the relative use factor, but in support of
19 its argument on that issue, Pac-West argued that the *ISP Remand Order* applies to all ISP traffic
20 and therefore the interconnection agreement and the ISP Amendment should be interpreted with
21 that principle in mind. The full Oregon Commission rejected Pac-West's argument.¹ For
22 example, the Commission stated that "[t]here is nothing in the *ISP Remand Order* or the judicial
23 decisions interpreting the FCC's orders to substantiate Pac-West's assertion that the FCC's
24 definition of ISP-bound traffic includes VNXX traffic." Order No. 05-1219 at 8. Later in the

25
26 ¹ Order, *In the Matter of Pac-West Telecomm v. Qwest Corporation*, Docket IC 9, Order No.05-1219 (Or. PUC November 18, 2005) (<http://apps.puc.state.or.us/orders/2005ords/05-1219.pdf>).

1 order, the Oregon Commission concluded: “The only logical conclusion is that the FCC did not
2 contemplate that VNXX traffic would be encompassed by its *ISP Remand Order*. *Id.* Since
3 those orders, the Oregon Commission has rendered similar decisions in a complaint brought by
4 Level 3 and in an arbitration between Qwest and Universal Telecom; indeed, in the last
5 Universal order, the Oregon Commission relied specifically on *Global NAPs*.²

6
7 If Pac-West’s purpose in bringing up the Oregon VNXX Investigation is to demonstrate
8 that Qwest was aware that some carriers in Oregon were obtaining blocks of telephone numbers
9 as part of a business plan which would enable them to provide long distance-like services
10 without long distance charges and without payment of access charges to local change carriers,
11 they are correct. However, that does not establish that Pac-West ever advised Qwest that Pac-
12 West intended to employ VNXX routing under its ICA in Arizona.³ Nor does the Oregon

13 ² Ruling, *In the Matter of Qwest Corporation vs. Level 3 Communications, LLC, Complaint for*
14 *Enforcement of Interconnection Agreement*, IC 12 (Oreg. PUC, ALJ Petrillo, August 16, 2005),
15 *affirmed*, Order No. 06-037, *In the Matter of Qwest Corporation vs. Level 3 Communications,*
16 *LLC, Complaint for Enforcement of Interconnection Agreement*, IC 12 (Ore. PUC, Jan. 30, 2006)
17 (These decisions are viewable at <http://edocs.puc.state.or.us/efdocs/HDA/ic12hda1032.pdf>; and
18 <http://apps.puc.state.or.us/orders/2006ords/06-037.pdf>); Arbitrator’s Decision, *In the Matter of*
19 *Qwest Corporation’s Petition for Arbitration of Interconnection Rates, Terms, Conditions, and*
Related Arrangements with Universal Telecommunications, Inc., Docket ARB 671 (February 2,
2006), *affirmed*, Order No. 06-190, at 4(Or. PUC, April 19, 2006) (relying specifically on *Global*
NAPs) (the Universal decisions are viewable at
<http://edocs.puc.state.or.us/efdocs/HDE/arb671hde11432.pdf> and
<http://apps.puc.state.or.us/orders/2006ords/06-190.pdf>).

20 ³ Pac-West is wrong in asserting that Qwest somehow claims it did not know about
21 VNXX traffic at the time of the ISP Amendment. What Qwest said in its Exceptions filed on
22 April 24, 2006, is that “Pac-West never disclosed its intention to use a novel dialing scheme that
23 was inconsistent with the Commission’s own rules (and which the Commission has rejected as
24 for AT&T in the AT&T Arbitration Order). Qwest Exceptions at 11, 10-12. VNXX is a
25 concept that parties were becoming aware of in 2000 and 2001. In fact, when the FCC issued its
26 *Unified Intercarrier Compensation NPRM* the same day as it issued the *ISP Remand Order*
(April 27, 2001), it asked for comment on the effect of VNXX on “the reciprocal compensation
and transport obligations of interconnected LECs.” Notice of Proposed Rulemaking, *Developing*
a Unified Intercarrier Compensation Regime, CC Docket No. 01-92, FCC 01-132, ¶ 115 (April
27, 2001) (“*Unified Intercarrier Compensation NPRM*”). In that same paragraph, the FCC also
noted that it “has delegated some of its authority to state public utility commissions in order that
they may order [NANPA] to reclaim NXX codes that are not used in accordance with
[COAG].” (*Id.*). The FCC also observed that the Maine Commission had directed NANPA to

1 Investigation prove that Qwest consented to pay terminating compensation for VNXX delivered
2 ISP traffic.

3
4 Pac-West points out that Qwest witness Larry Brotherson filed testimony regarding
5 VNXX in the Oregon VNXX Investigation within two weeks of signing the Pac-West / Qwest
6 ISP Amendment. A copy of Mr. Brotherson's testimony is attached as Exhibit 1. In his
7 testimony regarding VNXX, Mr. Brotherson said,

8
9 VNXX service should not be allowed in Oregon under the guise of local service.
10 Carriers seeking VNXX services are attempting to redefine existing tariffed
11 services and Commission-set local boundaries and categorize them in a unique
12 way to avoid paying compensation for toll calls. These VNXX numbers, and the
13 facilities that would be used to connect to locations where such calls would be
14 terminated, are interexchange under existing tariffs. By attempting to fool the
15 systems with a local number, the call detail itself would not indicate that any
16 compensation associated with this interexchange or toll call should be made. The
17 assignment of telephone numbers in the VNXX manner should not result in
18 interexchange calls between two Oregon communities to masquerade as local
19 calls. (*See* Exhibit 1 hereto, at 1).

20 Regarding the use of VNXX to deliver calls to ISPs, Mr. Brotherson stated as follows:

21 Qwest believes that ISP traffic should be rated as follows:

- 22
- 23 • If the traffic is ISP-bound and the ISP is located within the same local
24 calling area, then local interconnection rates pursuant to a approved
25 interconnection agreement would apply.
 - 26 • If the traffic is ISP-bound and the ISP is not located within the same local
calling area, then the terminating carrier would be subject to access
charges. (*Id.*, at 16).

reclaim NXX codes used by a carrier for VNXX.

One of the factors that convinced the a Minnesota ALJ that the *ISP Remand Order*
applies only to local ISP traffic was the fact that the FCC sought comment on VNXX in the
NPRM and had noted the Maine Commission's power to reject VNXX arrangements, concluding
that it is "unlikely that the FCC included VNXX in the mandatory, exclusively federal regime
established for ISP-bound traffic in the *ISP Remand Order*, while simultaneously acknowledging
that state commissions could reject VNXX arrangements as a misuse of numbering resources."
(*Minnesota ALJ Decision* at 10). The Minnesota ALJ order has now been unanimously affirmed
by the Minnesota Commission.

1 It is apparent that Qwest's position on VNXX traffic, and VNXX-delivered traffic to
2 ISPs, has been consistent through the history of the controversy. It is also apparent that Qwest
3 never agreed that VNXX traffic was proper, and or that calls to ISPs made via VNXX routing
4 should be treated as anything other than interexchange calls, subject to access charges.
5 What the record in the Oregon VNXX Investigation proves is that contemporaneous to the time
6 the parties entered into the ISP Amendment, Qwest adamantly opposed including VNXX calls in
7 the category of ISP-bound traffic. There is certainly nothing in Oregon orders or Mr.
8 Brotherson's testimony that suggests in any manner that Qwest interpreted the ISP Amendment
9 to include VNXX traffic—indeed, the opposite is true.

10 If the Oregon VNXX Investigation and the other Oregon authorities prove anything about
11 the ISP Amendment, they prove that the ISP Amendment applies only to local ISP traffic.
12 Qwest's argument is that, as *Global NAPs* demonstrates, the *ISP Remand Order* applies only to
13 local ISP traffic. Therefore, the ISP Amendment, whose explicit purpose was to implement the
14 *ISP Remand Order* in existing interconnection agreement, likewise applies *only* to local ISP
15 traffic. Thus, whether Qwest was aware of the concept of VNXX prior to the amendment does
16 nothing to change the fact that the scope of the amendment is defined by scope of the *ISP*
17 *Remand Order*, which does not include VNXX ISP traffic.

18
19 **2. Arbitrator Antonuk Never Addressed the Question of VNXX-Delivered ISP Traffic.**

20
21 Pac-West attempts to leave the Commission with the impression that Arbitrator
22 Antonuk already ruled on the question of whether Qwest must pay terminating compensation for
23 VNXX-delivered ISP traffic when he issued the 2004 Arbitration Ruling. However, even a
24 casual reading of the 2004 Arbitration Ruling reveals that the only issue arbitrated was whether
25 the cap the FCC had placed on minutes for ISP-bound traffic compensation for years 2001, 2002,
26 and 2003, should continue for subsequent years in the absence of further FCC action on

1 intercarrier compensation. Nowhere does the 2004 Arbitration ruling mention VNXX-delivered
2 traffic, because the parties were not litigating that question.

3
4 Pac-West further attempts to advance its mischaracterization of the 2004 Arbitration
5 Ruling by asserting that “Two independent decision makers have concluded that, pursuant to the
6 ISP Amendment, Qwest promised to pay Pac-West the state-ordered reciprocal compensation
7 rate for ‘all’ ISP-bound traffic.” Pac-West Supplemental Brief at 5. In point of fact, Arbitrator
8 Antonuk stated only that “The cap on minutes for ISP-bound traffic compensation expired at the
9 end of 2003,” and that “Pac-West is entitled to compensation for such traffic beginning on
10 January 1, 2004 without application of the cap.” Qwest has not been able to find any statement
11 by Arbitrator Antonuk that Qwest must pay for “all” ISP-bound traffic, and submits that even if
12 he did, the unmistakable meaning of such a statement would simply be that the compensation
13 was no longer subject to the cap. Arbitrator Antonuk clearly did not have before him the issue of
14 whether VNXX delivered traffic to ISPs is compensable, and did not rule on that question..

15
16 The finding that Arbitrator Antonuk made that does have a direct bearing on this
17 proceeding is his ruling that when the parties entered into the ISP Amendment, they intended to
18 mirror the FCC’s intent and scope in the *ISP Remand Order*. “The parties’ intent was to do no
19 more and no less than what the FCC provided for in the *ISP Remand Order . . .*” 2004
20 Arbitration Ruling, at 5. With the clarity that *Global NAPs* brings, we know that the FCC
21 evinced no purpose to preempt the states’ authority over the definition of local calling areas, and
22 interexchange calling, for traffic destined for the Internet. With *Global NAPs* we know that the
23 FCC did not order that terminating compensation be paid for all ISP traffic. With *Global NAPs*
24 we know that the FCC did not pre-ordain a result on the question of VNXX delivered ISP traffic.
25 As such, the parties here, who intended only only to mirror what the FCC intended in the ISP
26 Remand Order, could not have intended the result that Pac-West urges. The parties could not

1 intend more than did the FCC.

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RESPECTFULLY SUBMITTED this 16th day of May, 2006.

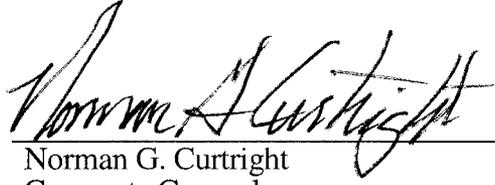
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QWEST CORPORATION

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EXHIBIT 1

ORDER NO. 04-704

ENTERED DEC 08 2004

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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1058

In the Matter of the Investigation into the) ORDER
Use of Virtual NPA/NXX Calling Patterns.)

DISPOSITION: APPLICATION FOR CLARIFICATION GRANTED IN
PART AND DENIED IN PART; ORDER CLARIFIED

Background. By Order No. 04-504, entered September 7, 2004, the Public Utility Commission of Oregon (the Commission) closed Docket UM 1058, the Investigation into the Use of Virtual NPA/NXX Calling Patterns (Closing Order). We determined that the Investigation was not a suitable means for dealing with the issue of Virtual NPA/NXX usage for reasons we described as follows:

In reaching the following conclusions, we do not rely on Staff's testimony. Rather, we take official notice of our prior Orders and those of the FCC cited therein. The language included in a certificate of authority is typically as follows:

7. For purposes of distinguishing between local and toll calling, applicant shall adhere to local exchange boundaries and Extended Area Service (EAS) routes established by the Commission. Further, applicant shall not establish an EAS route from a given local exchange beyond the EAS area for that exchange.

8. When applicant is assigned one or more NXX codes, applicant shall limit each of its NXX codes to a single local exchange or rate center, whichever is larger, and shall establish a toll rate center in each exchange or rate center proximate to that established by the telecommunications utility or cooperative corporation serving the exchange or rate center.¹

¹ See *In the Matter of Petition from Oregon Exchange Carrier Association Requesting an Order to Implement Rate Center Consolidation*, Docket UM 953, Order No. 00-478, entered August 29, 2000.

A plain reading of these conditions leads to the conclusion that any carrier engaging in the conduct described by OTA in its Petition would clearly be in violation of its certificate. Therefore, rather than requesting a declaratory ruling or a generic investigation, the most appropriate means for dealing with allegations relating to such activity would be in the context of a complaint or a request for arbitration.²

Positions of the Parties. On November 8, 2004, WorldCom, Inc., n/k/a MCI (MCI); Time Warner Telecom of Oregon, LLC (TWT) and Pac-West Telecomm, Inc. (Pac-West) (“the Joint CLECs”), filed an Application for Clarification or, Alternatively, Rehearing of Order No. 04-504 (Application). The Application states that “it is not clear from the text of the Order whether the Commission is suggesting that the issue of whether there has been a certificate violation would be treated as ‘res judicata’ in any such future proceeding.”³ The Joint CLECs asked the Commission to clarify that “Order No. 04-504 does not have the weight of precedent in any pending or future PUC proceedings, and that parties will be permitted to present evidence and argument on the issue of certificate violations in any pending or future proceedings involving this issue.... In the alternative, the Commission should reopen docket UM 1058 and grant rehearing regarding the issue of whether VNXX arrangements may violate any of the conditions contained in a carrier’s certificate of authority.”⁴

On November 22, 2004, the Commission staff (Staff) filed a Response to Joint CLECs’ Motion for Clarification or, Alternatively, Rehearing of Order No. 04-504 (Staff Response). Although Staff stated that “procedural concerns raised by the Joint CLECs are overstated and do not warrant clarification or rehearing.... Staff does, however, believe the Order could be clarified to make clear:

1. The Commission has not concluded that VNXX per se is a violation; and
2. In any complaint alleging violation of a certificate of authority by means of VNXX arrangements, the burden remains on the complainant to show an actual violation.”⁵

On November 23, 2004, Verizon Northwest Inc., the Oregon Telecommunications Association, Qwest Communications and CenturyTel of Oregon, Inc. (collectively, the ILECs), filed a Response to CLECs’ Application for Rehearing (ILEC Response). The ILECs offer several reasons for denying the CLECs’ Application. First, the ILECs argue that a rehearing is improper because the CLECs failed to comply with the requirements of OAR 860-014-0095

² Closing Order, p. 5.

³ Application, p. 4.

⁴ *Id.*, pp. 4-5.

⁵ Staff Response, p. 1.

because they fail to allege new facts, changes in law, legal or factual errors, or good cause for further examination.⁶ The ILECs further claim that the Commission rules do not provide for a "clarification" of an order on the basis that the order should not be followed in future proceedings,⁷ and that the Commission's assertion that standard operating certificates do not permit VNXX services is not itself challenged by the ILECs.⁸ Finally, the ILECs argue that the proper course of action is for the CLECs to seek to amend their operating certificates whose provisions they are currently violating and for the Commission to open an investigation into CLEC provision of VNXX services to determine their effect on universal service.⁹

Discussion. We terminated this investigation because we were convinced that the procedural path had significant infirmities. We made neither findings of fact nor conclusions of law with respect to the matters encompassed by the investigation. In our Order closing the investigation, we made clear our view that, if there were an aggrieved party (most likely a carrier) alleging that another carrier was improperly offering VNXX services, the filing of a complaint or a request for arbitration would be the appropriate means for addressing the allegations. For reasons already discussed in previous orders, the parties were explicitly advised to seek neither a declaratory ruling nor the opening of a generic investigation to resolve the dispute.

When a complaint or request for arbitration is filed, the Commission or Arbitrator shall receive the allegations and the facts *de novo* and make factual findings and legal conclusions in the ordinary course of proceedings. The parties shall be free to present and argue the totality of the case and the factual and legal burdens shall not be altered by the subject matter of the proceeding.

⁶ ILEC Response, p. 3.

⁷ *Id.*

⁸ *Id.*, p. 4.

⁹ *id.*, pp 5-7.

ORDER

IT IS ORDERED that the Application for Clarification or, Alternatively, Rehearing of Order No. 04-504, filed November 8, 2004, is GRANTED to the extent indicated above and DENIED in all other respects.

Made, entered, and effective _____.

Lee Beyer
Chairman

John Savage
Commissioner

Ray Baum
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.

EXHIBIT 2

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

**In the Matter of the Investigation into the)
Use of Virtual NPA/NXX Calling Patterns)**

DOCKET NO. UM 1058

**DIRECT TESTIMONY OF
LARRY B. BROTHERRSON
FOR
QWEST CORPORATION**

February 21, 2003

UNIV001759

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FOR THE DIRECT TESTIMONY
OF LARRY B. BROTHERSON**

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I. EXECUTIVE SUMMARY

An NXX, commonly referred to as a prefix, is the second set of three digits of a ten-digit telephone number (NPA-NXX-xxxx). These three digits (NXX) are assigned to and indicate a specific Oregon central office from which a particular customer is physically served. A "virtual" NXX, or VNXX, is the process of assigning a VNXX prefix to a carrier so that it appears in the network as if any customer assigned one of the telephone number from the VNXX is physically located in a particular Oregon central office when in fact that customer is located in some other community, a toll call away. Some have further defined a VNXX as a single VNXX code designated to represent a local telephone number in ALL Oregon local rate centers.

VNXX service should not be allowed in Oregon under the guise of local service. Carriers seeking VNXX services are attempting to redefine existing tariffed services and Commission-set local boundaries and categorize them in a unique way to avoid paying compensation for toll calls. These VNXX numbers, and the facilities that would be used to connect to locations where such calls would be terminated, are interexchange toll under existing tariffs. By attempting to fool the systems with what would appear as a local number, the call detail itself would not indicate that any compensation associated with this interexchange or toll call should be made. The assignment of telephone numbers in the VNXX manner should not result in interexchange toll calls between two Oregon

communities to masquerade as local calls.

The historic and current framework for network architectures, rating and billing are based upon the geographic assignment of NXX codes and the associated local rate center configuration. VNXX is inconsistent with the existing national framework within which all carriers currently operate. For Oregon to establish a unique numbering scheme would not only add confusion industry-wide, but would require changes to the way all switches are translated, and at the same time increase the quantity of trunk groups to accommodate the increase in transport of the traffic.

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II. IDENTIFICATION OF WITNESS

Q. PLEASE STATE YOUR NAME, OCCUPATION AND BUSINESS ADDRESS.

A. My name is Larry B. Brotherson. I am employed by Qwest Corporation ("Qwest") as a director in the Wholesale Markets organization. My business address is 1801 California Street, Room 2440, Denver, Colorado, 80202.

Q. BRIEFLY OUTLINE YOUR EMPLOYMENT BACKGROUND.

A. In 1979, I joined Northwestern Bell Telephone Company. I have held several assignments within Northwestern Bell, and later within U S WEST and Qwest, primarily within the Law Department. Over the past 20 years, I have been a state regulatory attorney in Iowa, a general litigation attorney, and a commercial attorney supporting several business organizations within Qwest. My responsibilities have included evaluating and advising the company on legal issues, drafting contracts, and addressing legal issues that arise in connection with specific products. With the passage of the Telecommunications Act of 1996 (the "Act"), I was assigned to be the attorney in support of the Interconnection Group. In that role, I was directly involved in working with competitive local exchange carriers ("CLECs") negotiating contract language implementing various sections of the Act, including the Act's reciprocal compensation provisions. In 1999, I assumed my current duties as Director of Wholesale Advocacy.

1 My current responsibilities include coordinating the witnesses for all
2 interconnection arbitrations and for hearings related to disputes over
3 interconnection issues. Additionally, I work with various groups within the
4 Wholesale Markets organization of Qwest to develop testimony addressing issues
5 associated with interconnection services.

6

7 **Q. WHAT IS YOUR EDUCATIONAL BACKGROUND?**

8 A. I have two degrees: a Bachelor of Arts degree from Creighton University which I
9 received in 1970; and a Juris Doctor degree from Creighton University, which I
10 received in 1973.

11

12 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE OREGON PUBLIC
13 UTILITIES COMMISSION?**

14
15 A. Yes. In August of 2000, I provided testimony setting forth Qwest's position
16 regarding reciprocal compensation in ARB 238. I also participated in the Oregon
17 271 workshops in Docket UM 823.

18

19

III. PURPOSE OF TESTIMONY

20

21 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

22 A. The purpose of my testimony is to address the Issues List issued by Administrative
23 Law Judge Allan Arlow in his December 18, 2002 ruling in this docket.

24

25

1 **IV. VIRTUAL NXX SERVICE**

2
3 **ISSUE 1**

4
5 **Q. WHAT IS THE DEFINITION OF VIRTUAL NXX (VNXX) SERVICE?**

6
7 A. Virtual NXX (VNXX) service can be defined as the assignment of telephone
8 numbers in an Oregon rate center to customers who are not physically located in
9 the rate center to which the VNXX is assigned. It is similar to the historic Foreign
10 Exchange (FX) service that was offered in Oregon, which enabled a Salem
11 customer, for example, to dial a local Salem number, but in fact reach a customer
12 physically located in Portland.

13
14 Some commenters have taken VNXX beyond this simple example and want to
15 designate a single VNXX code to represent a local telephone number in **ALL**
16 Oregon local rate centers and to rate the telephone number as if it were local.

17
18 **Q. WHAT ARE THE PROBLEMS WITH VNXX SERVICE?**

19 A. Carriers seeking VNXX service are attempting to redefine existing tariffed
20 services and Commission-set local boundaries and categorize them in a unique
21 way to avoid paying compensation for toll calls. These VNXX numbers, and the
22 facilities that would be used to connect to locations where such calls would be
23 terminated, are long distance under existing tariffs. By assigning telephone
24 numbers in the VNXX manner, the call detail itself would not indicate that any
25 compensation associated with VNXX calls should be made.

1 In addition to the bypass of toll, the assignment of a single VNXX code to
2 represent a local telephone number in ALL Oregon rate centers is inconsistent
3 with the existing industry framework within which all carriers currently operate.
4 The NXX code has historically been associated with a single geographical rate
5 center used to determine call rating and routing. Establishing a unique numbering
6 scheme by allowing VNXX service is inconsistent with the industry guidelines for
7 assigning NXX codes.

8

9 **Q. PLEASE DESCRIBE HOW NXX CODES ARE ASSIGNED AND**
10 **ADMINISTERED?**

11

12 **A.** NXX codes are assigned in accordance with the Central Office Code Assignment
13 Guidelines. These guidelines are established and maintained by the Industry
14 Numbering Committee ("INC") of the Alliance for Telecommunications Industry
15 Solutions ("ATIS"), an industry standards organization, in conjunction with the
16 North American Numbering Council (NANC), an advisory group to the FCC
17 made up of regulators, carriers and consumer advocates. In determining whether
18 to assign numbers to carriers, the North American Numbering Plan Administrator
19 (NANPA) adheres to the FCC's various number optimization orders and decisions
20 from FCC Docket 99-200 and INC Guidelines. Basically, the FCC rules provide
21 that telephone numbers are assigned only to local exchange carriers, and the
22 underlying goal of the FCC's number conservation effort is to preserve numbers
23 for authorized carriers. The FCC has stated:

24 ...we expect the establishment of these requirements to make more
25 numbering resources available to carriers lawfully authorized by state

1 commissions to provide **local** service by preventing unauthorized carriers
2 from unlawfully depleting numbering resources. (Emphasis added.)
3
4

5 **Q. WHY ARE NXX CODES ASSIGNED TO LOCAL SERVICE**
6 **ASSOCIATED WITH GEOGRAPHIC RATE CENTERS?**
7

8 A. The industry framework for network architectures, rating and billing are based
9 upon the NXX code and the local rate center configuration. Numbering
10 information, including the assignment of NXX codes, is included in national
11 databases that contain detailed descriptions of all networks in the North American
12 Numbering Plan (NANP) area necessary for message routing, call setup, operator
13 service access routing, message rating, credit card and calling card services, and
14 access to 911 emergency services. NXX codes are activated and routed in all
15 carrier networks nationally in accordance with the information provided in these
16 databases. These databases were designed to provide the routing and rating
17 information based on the NXX code, or NXX blocks, and the associated
18 geographic rate centers. The industry currently utilizes the NXX data and its
19 associated geographic identity to determine call routing, call rating, and the
20 appropriate inter-carrier charges associated with the call.
21

22 **Q. WHAT IS THE EFFECT OF VNXX SERVICE ON LOCAL NUMBER**
23 **PORTABILITY?**
24

25 A. VNXX, when assigned for use across a broad geographic area such as a LATA or
26 NPA, creates other concerns related to Local Number Portability ("LNP").
27 According to existing American National Standards Institute (ANSI) and FCC
28 requirements, LNP, also referred to as Service Provider Portability, enables a

1 customer to retain the same telephone number when she/he changes from one
2 local service provider to another. Service Provider Portability also allows the
3 customer to move within her/his "existing" rate center and retain the same
4 telephone number. Specifically, Service Provider Portability is currently deployed
5 in Oregon in compliance with the industry standard requirements in ANSI
6 standard T1.TRQ.2-2001 Section 3.1.1, which provides: "Only service provider
7 portability and location portability **within a rate center** are supported at this
8 time." (Emphasis added.)

9
10 The intent of the FCC in its order on LNP, in FCC 96-286, limited LNP to Service
11 Provider Portability within an ILEC rate center. VNXX services seek to have
12 numbers provided to end users that are not associated with a specific geographic
13 rate center location, which is outside the scope of Service Provider Portability.
14 VNXX service calling patterns usually result in calls terminating in a different rate
15 center, basically providing a form of geographic or "Location" portability.
16 Location Portability, different from Service Provider Portability, and not a valid
17 form of number portability, is the ability to keep the same telephone number when
18 moving to a new location **outside** of the existing rate center. While Location
19 Portability may be a desirable goal, it has not been defined generally or deployed
20 within the industry. Location Portability was not the intent of the FCC in its order
21 on LNP in FCC 96-286.

22
23 **Q. WHAT ARE THE IMPACTS OF LOCATION PORTABILITY?**
24

1 A. There are numerous issues surrounding Location Portability, many of which are
2 very similar to the issues surrounding VNXX codes, which would need to be
3 resolved prior to the deployment of Location Portability. These issues have been
4 discussed at national industry forums and have included the following concerns:
5 significant changes required to billing systems; Operational Support System
6 (OSS) impacts for ordering, assignment, repair, and operator services; the ability
7 for Private Branch Exchange (PBX) systems, hotels and motels to bill correctly;
8 coin phone issues where calls are rated based on NPA-NXX codes; consumer
9 concerns associated with the identification of calls as local or toll; and, most
10 importantly, the ability of the 911 systems to function correctly in a geographic
11 portability environment. These issues require resolution prior to deployment of
12 any type of geographic or location portability.

13

14 **Q. WHAT ARE SOME EFFECTS OF VNXX SERVICE ON OTHER**
15 **SYSTEMS?**
16

17 A. Provisioning, routing, rating and billing systems have also been developed based
18 on current industry standards and rate center reference. Switch vendors
19 manufacture switches based on technical standards and requirements developed
20 by the industry, vendors and regulators, at the North American Numbering
21 Council (NANC) and the Industry Numbering Committee (INC). Switches have a
22 limited number of NXX assignment capabilities, depending on the switch type.
23 Thus, use of VNXXs would require changes in industry guidelines, national
24 standards, technical requirements and trunking.

1
2 **Q. WHAT VNXX SERVICES DOES QWEST OFFER IN OREGON?**

3
4 A. Qwest currently does not offer a service called "VNXX" in Oregon.

5 **ISSUE 2**

6
7 **Q. WHAT SERVICES COMPARABLE TO VNXX DOES QWEST**
8 **CURRENTLY OFFER IN OREGON?**

9
10 A. Qwest does not offer comparable services to VNXX service in Oregon.

11 Historically, if a Qwest end-user customer in one rate center wanted to obtain a
12 telephone number in a different Qwest rate center, usually for the purpose of
13 providing a toll-free service, services such as FX service were available to the
14 customer.¹ The Commission discontinued FX service in Oregon with certain
15 existing customers grandfathered in 1983. (See Order No. 83-839.) While FX
16 service may be similar to VNXX service, in that a telephone number is obtained
17 from a different rate center, they are not the same. In each instance, the toll
18 revenues that would be otherwise billed to the calling parties as toll are recovered
19 from the called party as a "toll replacement charge." The additional transport and
20 switching costs of routing the calls beyond the local calling area are recovered
21 through tariffed services, rather than assessing toll charges to the calling party.

22
23 Some may have considered Qwest's Primary Rate ISDN Service offered in
24 Oregon (P.U.C. Oregon tariff No. 29, Exchange and Network Service Tariff,
25 Section 14) to be similar with VNXX service. Primary Rate ISDN is not similar

¹ While 800-type services provide similar functionality, the 800 number does not present the same appearance of a local presence; therefore, Qwest does not discuss 800-type services in this testimony.

1 to VNXX, however, in that the telephone numbers associated with the service are
2 assigned within the local geographic rate center where the service is provided and
3 are not assigned out of a distant end rate center. Primary Rate ISDN is offered as
4 an Exchange and Network service product that provides distance-sensitive
5 transport terminating at a customer's premise and follows the rules and
6 regulations of all other local exchange services.

7
8 Another service, similar to FX service, but not comparable to VNXX, is Market
9 Expansion Line (MEL) offered in Oregon. (PUC Oregon No. 29, 5.4.4.) MEL
10 provides an FX-like service; however, the 10-digit telephone number is assigned
11 out of the geographic rate center associated with the NXX code and is not
12 assigned to a distant rate center. MEL provides service utilizing the Remote Call
13 Forwarding feature, allowing calls to be forwarded to another telephone number
14 outside of the assigned NXX's central office. If the call were to terminate outside
15 of the local calling area or rate center of the NXX code, toll charges would apply.

16
17 Feature Group A (FGA) may also be considered similar to "FX-like" services.
18 FGA service provides a lineside termination to Qwest switches for originating and
19 terminating traffic in Oregon in accordance with the terms and conditions
20 identified in P.U.C. Oregon No. 24, Access Service Tariff. A seven-digit local
21 telephone number is provided for access to FGA switching in the originating
22 direction. The seven-digit local telephone number is associated with the selected
23 end office switch and associated geographic rate center. FGA, when used in the

1 terminating direction, may be used to access valid NXX codes in the LATA.
2 Unlike the proposal for some VNXX services, calls to NXX codes outside of the
3 local rate center of the FGA service incurs all other applicable transport charges.

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ISSUE 3

8 **Q. IS VNXX SERVICE LEGAL UNDER CURRENT OREGON LAW?**

9
10 **A.** This legal issue will be addressed in our post-hearing brief. Any toll bypass
11 scheme that undercuts the access support for local service should be prohibited.

12
13
14

ISSUE 4

15 **Q. PLEASE EXPLAIN HOW THE PUBLIC BENEFITS FROM ACCESS TO**
16 **VNXX SERVICE.**

17
18 **A.** The public does not "benefit" from VNXX if it is used simply as a toll avoidance
19 scheme. Access charges for interexchange traffic is an integral part of the rate
20 structure in Oregon. Access charges relate directly to local rates for Qwest, and to
21 an even larger degree for the independent companies in Oregon. However, the
22 ability of end-users to make toll-free calls has long been recognized as having a
23 benefit to both the end-user callers and the called party in the distant exchange.
24 Services such as 800 service have enabled the called party to benefit from
25 customers reaching its distant location toll free in order to meet the business needs
26 of the called party. In the case of an ISP, the ability to have its internet customers
27 reach it by dialing a local number, but delivering the call to a distant Oregon rate
28 center, would be of great benefit to the ISP. At the heart of the VNXX issue,
29 however, is the question of who pays for the inter-exchange transport between toll

1 rate centers and how this cost is passed on to the ultimate cost-causer, which in
2 this case is the ISP.

3

4

ISSUE 5

5

6

**Q. WHAT IS THE EXTENT OF THE FCC'S PREEMPTION OF STATE
7 COMMISSION AUTHORITY OVER TRAFFIC BOUND FOR INTERNET
8 SERVICE PROVIDERS (ISPs)?**

9

10

A. This legal issue will be addressed in our post-hearing brief.

11

12

13

**Q. HOW DOES THIS FCC PREEMPTION, TO THE EXTENT IT EXISTS,
14 RELATE TO THE OFFERING OF VNXX SERVICE?**

15

16

A. This legal issue will be addressed in our post-hearing brief.

17

18

19

ISSUE 6A

20

21

**Q. IS IT APPROPRIATE TO TREAT VNXX SERVICES FOR ISP-BOUND
22 TRAFFIC DIFFERENT FROM VNXX SERVICES FOR OTHER TYPES
23 OF TRAFFIC, SUCH AS VOICE?**

24

25

A. No. While the Commission may recognize different social goals among various
26 customers (for example, between an ISP and a ticket reservation center that would
27 also benefit from toll-free numbers), the interoffice transport remains the same. In
28 fact, the calling patterns of ISP traffic, with its long hold times, could very well
29 require more interoffice transport facilities. This fact, coupled with the pending
30 growth in Voice over Internet Protocol (VoIP) for potential intraLATA voice toll
31 calls, dictates the equal treatment of all traffic. After all, interexchange toll traffic
32 is interexchange toll traffic.

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ISSUES 6B AND 6C

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Q. IF SO, HOW SHOULD VNXX SERVICE BE TREATED WHEN IT IS USED FOR ISP-BOUND TRAFFIC, AND HOW SHOULD VNXX SERVICE BE TREATED WHEN IT IS USED FOR OTHER TYPES OF TRAFFIC, SUCH AS VOICE TRAFFIC?

A. As I stated in the previous question and answer, ISP traffic should not be treated separately from voice traffic. Calls that originate and terminate within an ILEC's local exchange area between customers that are actually located within that local calling area should be rated as local calls.

If the traffic is ISP-bound, and the ISP is located within the same local calling area, then local interconnection rates pursuant to an approved interconnection agreement should apply. This is a classic local call covered by interconnection agreements. In other words, this is the delivery of a local call from one customer located within a local calling area to another customer located within a local calling area. This is true even if the call is delivered to a CLEC switch located in another rate center like Portland, and returned to the same local calling area.

Calls that are routed to a point of interface with the purpose of terminating outside of the ILEC local calling area, however, are unequivocally interexchange or toll calls.

Carriers utilizing VNXX services to terminate traffic to an ISP that is not located within the same local calling area as that which the ISPs customers are located are no longer wearing their "local provider" hat. They are simply providing

1 interexchange toll service, and those calls therefore must be subject to the access
2 charge provisions for interexchange toll traffic.

3

4 **Q. WHAT OTHER FACTORS SHOULD THE COMMISSION CONSIDER**
5 **REGARDING THE TREATMENT OF VNXX SERVICE?**

6

7 VNXX calls are toll calls by definition, and thus are not local. Calls terminating
8 outside of the local calling area from where the call originated are non-local calls,
9 and therefore, reciprocal compensation for the termination of local calls should
10 not apply.

11

12 By establishing a VNXX, VNXX service providers want to trick all other service
13 providers' switches into thinking the call will terminate to a customer within a
14 local exchange. This results in the additional costs of carrying the calls between
15 rate centers to be borne by local exchange carriers. The VNXX service providers
16 and the ultimate cost-causer, the ISP, who now receives calls from its customers
17 without the ISP's customer paying for the interexchange transport, thus bear no
18 cost. ILECs must be fairly compensated for the interexchange transport of the
19 calls; alternatively, the telecommunications carrier who wishes to deliver this
20 interexchange traffic must provide its own interexchange transport, to the ISP.

21

22

23

ISSUE 6D

24 **Q. IS THERE A PRACTICAL OR COST-EFFECTIVE METHOD OF**
25 **DIFFERENTIATING BETWEEN ISP-BOUND AND VOICE TRAFFIC?**

26

27 **A.** I have previously stated my reasons for not differentiating between customers.

28 Interexchange transport is transport regardless of the called parties' particular type

1 of business. Further, when Voice over IP (VoIP) becomes more prevalent, as is
2 expected in the industry, a VoIP distinction becomes even more irrelevant.

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ISSUE 7A

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**Q. WHAT IS THE APPROPRIATE COMPENSATION MECHANISM FOR
VNXX SERVICE?**

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A. The appropriate compensation mechanism for VNXX services is that the VNXX service provider that is transporting traffic between local rate centers should pay the appropriate charges to transport calls between the rate centers, and these calls should not be considered local exchange calls. An important concern with VNXX services relates to compensation and how traffic will travel from various offices throughout the state to the carrier's point of interconnection. Carriers seeking VNXX services are attempting to redefine existing tariffed services and categorize them in a unique way to avoid paying compensation for toll calls. These VNXX numbers, and the Qwest facilities that would be used to connect to locations where such calls would be terminated, are interexchange toll under existing tariffs. By attempting to establish the VNXX as a local number in a distant rate center, or local in every rate center in a LATA or NPA, the call detail would not indicate that any compensation associated with an interexchange or toll call should be made. Assignment of telephone numbers through VNXX arrangements should not result in interexchange toll calls masquerading as local calls.

1 Qwest does not believe that the Commission should authorize VNXX service.
2 However, in response to the question on the Issues List, Qwest responds that
3 VNXX calls should be rated as follows:

- 4 • Calls that originate and terminate within the local calling area
5 should be rated as local calls.
- 6 • Calls that are routed to a point of interface for the purpose of
7 terminating outside of the local calling area should be rated as
8 interexchange toll calls. Carriers utilizing VNXX services are
9 providing interexchange services, and those calls must be subject
10 to the access charge provisions for interexchange traffic.
- 11 • VNXX calls will be long distance in nature and not be local. Calls
12 terminating outside of the local calling area from where the call
13 originated are non-local calls, and therefore, reciprocal
14 compensation for the termination of local traffic should not apply.

15
16
17

ISSUE 7B

18 **Q. SHOULD THE COMPENSATION MECHANISM FOR VNXX TRAFFIC**
19 **DIFFERENTIATE BETWEEN ISP-BOUND TRAFFIC AND OTHER**
20 **TYPES OF TRAFFIC?**

21 **A.** No. To the extent that a carrier assigns VNXX codes to varying rate centers in
22 order to expand an ISP's local calling area, Qwest would be the carrier
23 responsible for hauling this ISP traffic between a distant rate center and a carriers'
24

1 access, or transport on the facilities of an Interexchange Carrier ("IXC"), or
2 another carrier. Prohibiting sham local calls by banning VNXX would leave these
3 customers in the position they are today (i.e., looking to various providers to
4 transport this traffic). Banning VNXX would not upset the current marketplace,
5 and have little, if any, impact on competition, consumers or volumes of traffic.

6

7 **Q. HOW HAVE OTHER STATE COMMISSIONS ADDRESSED THE ISSUE**
8 **OF VNXX SERVICE?**

9

10 A. Numerous state commissions have addressed the issue of VNXX services.

11 Their findings include the following:

12

13 The Maine Public Utilities Commission undertook an investigation into the use of
14 central office codes (NXXs) by Brooks Fiber in Docket No. 98-758. In that
15 investigation, the Commission concluded as follows:

16 The record makes clear that Brooks' 'FX-like' service is being used by
17 Brooks' ISP customers for the purpose of allowing the ISPs' customers
18 who are outside Portland (and who are customers of Bell Atlantic or other
19 ILECs rather than of Brooks) to call the ISPs from locations throughout
20 the state without paying toll charges. It has exactly the same purpose as
21 'traditional' FX service: it is a substitute for interexchange toll service.
22 Alternatively, it is a variant on '800' service, which is a recognized ix toll
23 service. We therefore reaffirm our finding that Brook's 'FX-like' service
24 is an interexchange service, not a local exchange service.⁴

25

26 Likewise, the California Public Utilities Commission found, in an arbitration

27 between Level 3 and Pacific Bell, that Pacific Bell was entitled to tandem

⁴ Maine Public Utilities Commission, *Investigation into Use of Central Codes (NXXs) by New England Fiber Communications, LLC d/b/a Brooks Fiber*, Docket No. 98-758, Order Requiring Reclamation of NXX Codes and Special ISP Rates by ILECs (June 30, 2000), p. 12.

1 switching and transport compensation for the use of its facilities in carrying traffic
2 from the rate center where the calling party physically resides to the point of
3 interconnection closest to the switch used for terminating calls to the NXX rate
4 center where the call terminates. The Commission rejected Level 3's position that
5 Pacific Bell did not incur costs to transport this traffic.⁵

6
7 In addition, the Illinois Commerce Commission, in an arbitration between Level 3
8 and Ameritech, found that FX traffic does not originate and terminate in the same
9 local rate center, and thus, as a matter of law, it cannot be subject to reciprocal
10 compensation. Whether designated as VNXX or FX, "this service works a
11 fiction." The Commission noted that the service allows a caller to believe that
12 she/he is making a local call, and to be billed accordingly, when, in reality, such a
13 call is traveling to a distant point that, absent this device, would make the call a
14 toll call. It noted that the VNXX or FX call is local only from the caller's
15 perspective, and not from any other standpoint. Accordingly, the Commission
16 found "there is no reasonable basis to suggest that calls under this fiction can or
17 should be considered 'local' for purposes of imposing reciprocal compensation."⁶

18
19 Moreover, an arbitration panel composed of members of the Ohio Public Utilities
20 Commission's staff found that to the extent that a call to a customer utilizing

⁵ California Public Utilities Commission, *Arbitration between Level 3 and Pacific Bell*, Application 00-04-037, Decision No. 00-10-032 (October 5, 2002), pp. 5-6.

⁶ Illinois Commerce Commission, *Arbitration between Level 3 and Ameritech*, Docket No. 00-0332, Slip Opinion (issued August 30, 2000), p. 8.

1 VNXX service, originates or terminates outside of Ameritech's or Sprint's local
2 calling area, the call is considered a toll or interexchange call. Compensation is
3 thus based on the originating or terminating party's access charges.⁷

4
5 Further, the South Carolina Public Service Commission found, in an arbitration
6 between Adelphia and BellSouth, that typical traffic associated with VNXX
7 numbers does not originate and terminate within the same local calling area.
8 Thus, VNXX traffic does not meet the definition of local telecommunications
9 traffic, and thus cannot be subject to reciprocal compensation. The Commission
10 went on to note that "BellSouth is only required to deliver traffic at no charge
11 within a local service area, and as the typical 'virtual NXX' traffic terminates
12 outside the local service area, BellSouth is not required to deliver that 'virtual
13 NXX' traffic at no charge." The Commission rejected Adelphia's argument that
14 imposition of originating access charges would create an economic barrier, or give
15 BellSouth a significant competitive advantage. Rather, the Commission noted
16 that BellSouth was not obligated to carry this traffic at no cost, and that it was
17 entitled to compensation for carrying this traffic. Finally, the Commission
18 concluded that originating access charges are the appropriate compensation rate,
19 since, without "virtual NXX," the traffic would be toll traffic.⁸

20

⁷ Ohio Public Utilities Commission, *Petition for Arbitration, Global NAPs v. Sprint and Ameritech*, Case Nos. 01-2811 TP-ARB, 01-3096-TP-ARB, Arbitration Award (issued May 9, 2002), p. 8.

⁸ South Carolina Public Service Commission, *Arbitration between Adelphia and BellSouth*, Docket No. 2000-516-C, Order on Arbitration, Order No. 2001-045 (issued January 16, 2001), pp. 7-8, 13.

1 Finally, the Directors of the Tennessee Regulatory Authority, acting as arbitrators
2 pursuant to section 252 of the 1996 Act, found that calls to an NPA/NXX in a
3 local calling area outside the local calling area where the NPA/NXX is homed
4 should be treated as intrastate, interexchange toll traffic. Therefore, calls to and
5 from such calling areas are non-local, and subject to access charges.⁹

6
7
8

ISSUE 9

9 **Q. WHAT, IF ANY, IS THE IMPACT OF THE COMMISSION'S DECISION**
10 **IN ORDER NO. 83-869 ON THE ISSUES IN THIS CASE?**

11
12 A. This legal issue will be addressed in our post-hearing brief.

13
14 **Q. SHOULD THE COMMISSION RECONSIDER ITS DECISION IN ORDER**
15 **NO. 83-869?**

16
17 A. This legal issue will be addressed in our post-hearing brief.

18
19
20 **Q. IF SO, TO WHAT EXTENT SHOULD ORDER NO. 83-869 BE**
21 **MODIFIED?**

22
23 A. This legal issue will be addressed in our post-hearing brief.

24
25 **ISSUE 10**

26
27 **Q. WHAT IS THE EFFECT OF VNXX SERVICES ON NUMBER**
28 **RESOURCES?**

29
30 A. VNXX services, where a VNXX is assigned for use across a broad geographic
31 area such as a LATA or NPA, and does not permit the ability to recognize rate
32 center boundaries when it is used, are an inappropriate use of numbering

⁹ Tennessee Regulatory Authority, *Arbitration between Intermedia Communications and BellSouth*, Docket No. 99-00948, Interim Order of Arbitration Award (issued June 25, 2001), pp. 41-44, adopted in Final Order of Arbitration Award (issued September 7, 2001).

1 resources. This is especially so when there are services currently available that
2 provide these carriers with the ability to offer their customers toll-free calls that do
3 not require a VNXX code. There are a host of service arrangements available
4 today that will do essentially the same thing. Further, by assigning an entire (ten-
5 thousand block or even one-thousand block) NXX code to a CLEC for a small
6 number of customers requesting "FX-type" services would strand the remaining
7 numbers, unless the CLEC were willing to donate the "contaminated block" back
8 to the existing number pool. Modifying the existing standards used in
9 administering the North American Numbering Plan (NANP) for a unique use,
10 thereby bypassing existing access, local interconnection, and toll charges is an
11 inappropriate use of numbering resources.

12 ISSUE 11

- 13
- 14 **Q. SHOULD COMPANIES THAT DESIRE TO OFFER VNXX SERVICE BE**
15 **REQUIRED TO OBTAIN FROM THE COMMISSION A CERTIFICATE**
16 **OF AUTHORITY TO PROVIDE LOCAL EXCHANGE SERVICE FOR**
17 **EACH EXCHANGE IN WHICH IT WISHES TO OFFER VNXX**
18 **SERVICE?**
- 19
- 20 **A.** As stated earlier, Qwest does not believe that VNXX services should be allowed
21 in Oregon. Having a certificate of authority does not change that position. Qwest
22 does not believe that companies, certified or not, should be allowed to redefine
23 existing tariffed services.
- 24
- 25 **Q. SHOULD COMPANIES THAT DESIRE TO OFFER VNXX SERVICE BE**
26 **REQUIRED TO OFFER LOCAL EXCHANGE SERVICES IN EACH**
27 **EXCHANGE WHERE IT HAS NXX OFFICE CODES OR WISHES TO**
28 **OFFER VNXX SERVICE?**
- 29

1 A. As stated, Qwest does not believe that VNXX services should be allowed,
2 whether the provider is offering local service or not.

3
4 VNXX comparable services can be provided through at least two options. First, a
5 company can become a certified CLEC, and after establishing a local NXX, can
6 either offer local exchange services, or use the local NXX, along with the private
7 line transport services either purchased from Qwest or another provider, to
8 connect the local NXX to areas outside of the local exchange.

9
10 The second option is for a non-CLEC (ISP, business customer, residential
11 customer) in the local exchange to order one of the service arrangements that are
12 currently being offered using existing retail tariff prices.

13
14 **IV. CONCLUSION**

15
16 **Q. PLEASE SUMMARIZE YOUR TESTIMONY**

17
18 A. The Commission should not allow a carrier to circumvent existing access and toll
19 charge rules. VNXX services, where VNXXs are assigned for use across a broad
20 geographic area, are not appropriate uses of numbering resources, and are not
21 supported by industry standards. The Commission should not allow a carrier to
22 violate the existing FCC's LNP rules, which limits number portability to within a
23 rate center, or require changes to industry guidelines, national standards and
24 technical requirements to allow for the use of VNXX codes.

25
26 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

27
28 A. Yes, it does.

**CERTIFICATE OF SERVICE
UM 1058**

I certify that on the 21st day of February, 2003, I served the foregoing, **QWEST CORPORATION'S DIRECT TESTIMONY OF LARRY B. BROTHERSON** in Docket No. UM 1058 via Courier, U.S. Mail, or UPS overnight delivery to:

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