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2006 MAY 22 1 A 10: 20
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 CORPORATION'S MOTION
TO STRIKE COMMENTS
OF LEVEL 3 COMMUNICATIONS
REGARDING GLOBAL NAPS
DECISION AND MEMORANDUM IN
SUPPORT OF MOTION TO STRIKE**

MOTION

Qwest Corporation ("Qwest") hereby moves that the Comments of Level 3
Communications Regarding Global NAPs Decision be stricken from the record in this docket.
The grounds for this motion are set forth hereafter.

1 MEMORANDUM

2 On April 25, 2006, Administrative Law Judge Amy Bjelland entered a Procedural Order
3 in the matter order "the parties' [to] provide supplemental legal briefing *no later than 12:00 p.m.*
4 *on May 10, 2006* regarding" the recently issued decision of the First Circuit in *Global NAPs, Inc.*
5 *v. Verizon New England, Inc.* ("*Global NAPs*") and specifically how that case may affect the
6 Recommended Opinion and Order ("ROO") issued earlier in this matter. (Emphasis added).

7 On May 10, 2006, Qwest and Pac-West Telecomm, Inc. ("Pac-West"), the only parties to
8 this proceeding, filed timely comments in this matter.

9 On May 16, 2006, Qwest filed a reply to portions of Pac-West's May 10 comments that
10 went beyond a discussion of the *Global NAPs*.

11 On May 17, 2006, Level 3 Communications, LLC ("Level 3"), an entity that is not a
12 party to this proceeding, filed a set of Comments in this matter addressing the *Global NAPs*
13 decision.

14 Level 3's Comments should be stricken from the record for the following reasons.
15 First, Level 3 is not a party to this proceeding and has not even attempted to intervene in this
16 case, which is a complaint proceeding brought by Pac-West against Qwest relating to issues
17 under an interconnection agreement between Pac-West and Qwest. The relevant portion of the
18 Commission's intervention rule states:

19 **R14-3-105. Intervention as party and other appearances**

20 A. Intervention. Persons, other than the original parties to the proceedings, who are directly
21 and substantially affected by the proceedings, shall secure an order from the Commission
22 or presiding officer granting leave to intervene before being allowed to participate.

23 B. Application. An application for leave to intervene shall be in writing and must state the
24 basis for the application. Such application shall be served and filed by an applicant at
25 least five days before the proceeding is called for hearing. No application for leave to
26 intervene shall be granted where by so doing the issues theretofore presented will be
unduly broadened, except upon leave of the Commission first had and received. Upon the
granting of an application to intervene by the Commission or the presiding officer, the
intervening person shall thereafter be designated an "Intervenor".

1 Level 3 filed no such application with the Commission and the Commission has thus issued no
2 order allowing intervention. The filing of an application and the issuance of a order allowing
3 intervention are an absolute predicate to an Intervenor "being allowed to participate" in the
4 docket. Even had Level attempted to intervene, it does not have a direct and substantial interest
5 in this matter, which is a contract dispute between the two parties to the contract. Just because
6 the legal issues in a proceeding might in some manner have a possible impact on a third party
7 does not give that third party a direct and substantial interest. Judge Bjelland's order seeking
8 comments could not have been more clear that the request was directed only to parties in this
9 docket.

10 Second, even if Level 3 has properly intervened and had been allowed to participate,
11 Level 3 filed its Comments more than seven days after the very specific filing time that had been
12 set by Judge Bjelland. Thus, even if Level 3 were a proper intervenor in this docket, its filing is
13 not timely by over a week.

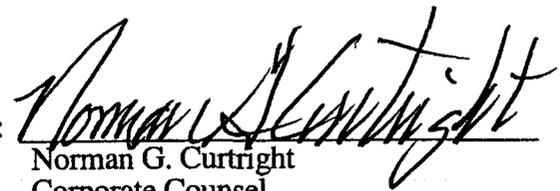
14 Procedural rules exist to bring order to often complicated matters and assure that
15 parties are accorded due process. Level 3 makes no attempt to even pay lip service to the
16 Commission's rules, and its Comments should therefore be stricken.

17 ///

18 ///

19 RESPECTFULLY SUBMITTED this 22nd day of May, 2006.

20 QWEST CORPORATION

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2 for filing this 22nd day of May, 2006, to:

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4 ARIZONA CORPORATION COMMISSION
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6 Phoenix, AZ 85007

7 COPY of the foregoing hand delivered/mailed/emailed
8 this 22nd day of May, 2006, to:

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