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Alex M. Duarte
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February 28, 2007

Honorable Sam Petrillo
Administrative Law Judge
Oregon Public Utility Commission
P. O. Box 2148
Salem, OR 97308-2148

Re: ARB 665- Level 3's February 20, 2007 Letter requesting Oral Argument

Dear Judge Petrillo:

We have received Level 3 counsel Lisa Rackner's February 20, 2007 letter in which Ms. Rackner advised Your Honor that Level 3 was providing the Commission "with notice that Level 3 *intends* to request oral argument on its Exceptions to the Arbitrator's Decision before the full Commission." (Emphasis added.) Since then Qwest has received Level 3's 43-page Exceptions.

First, it is unclear what Ms. Rackner means when she states that Level 3 "intends to request oral argument" on its Exceptions. By Level 3's own words, it does not appear the February 20th letter is meant to be any type of official request or motion for oral argument. Qwest certainly does not believe such an informal letter constitutes such a request. Nor has Level 3 filed a motion for oral argument, nor even mentioned oral argument in its 43-page submission. Thus, it is unclear whether Level 3 believes it has actually formally made such a request, whether Level 3 intends to file a formal motion or make a formal request in the future, and more importantly, whether the Commission has considered Level 3's February 20th letter as a formal request for oral argument.

In any event, although Qwest does not believe that Level 3 has made any formal request for oral argument, and does not believe there is any need for an oral argument in this section 252 interconnection arbitration in any event, Qwest responds as follows in the event the Commission considers Ms. Rackner's February 20th letter to be a formal request or motion for oral argument.

First, Qwest notes that Level 3 has not cited to any statute or Commission rule for its "intent" to request oral argument. Moreover, the only reference to any oral argument before the Commission is pursuant to ORS 756.518(2) and OAR 860-014-0023. However, the statute and the rule apply only to a Commission docket that has been previously classified as a "major proceeding." This docket, however, has never have been classified as a "major proceeding."

Further still, this docket certainly does not automatically qualify as a “major proceeding” under OAR 860-014-0023(1), nor has it been classified as such under OAR 860-014-0023(2).

Qwest also does not believe this interconnection agreement arbitration is the type of docket that would have been classified as a “major proceeding” even if Level 3, the only other party to this two-party arbitration docket having its own procedural rules (Division 16 of OAR Chapter 860), had filed a formal petition under OAR 860-014-0023(2) and (3) at the outset of the docket. See e.g., OAR 860-014-0023(3) (describing the procedures for a motion to be classified a major proceeding, including parties’ answers to the motion) and OAR 860-014-0023(4) (requiring the scheduling of oral argument in a major proceeding “at the prehearing conference or as soon thereafter as possible”).

Finally, Qwest does not believe this two-party interconnection arbitration under section 252 and OAR 860-016 would qualify for a major proceeding in any event. Although the parties have filed numerous pieces of testimony and post-hearing briefs over the past two years, there is simply no need for oral argument here (even if the case were to qualify for oral argument). The Commission is fully capable of considering the Arbitrator’s Decision and all of the extensive record in this arbitration, including the extensive post-hearing briefing, before rendering its final order either adopting or modifying the Arbitrator’s Decision. Indeed, Qwest is not aware of *any* interconnection arbitration under section 252 and OAR 860-016 that has ever been classified as a major proceeding and/or that had oral argument. Qwest believes that this is for good reason, lest the Commission be inundated with requests from every CLEC (or ILEC, for that matter) that believes its interconnection arbitration issues should be addressed by the full Commission at oral argument. Although Level 3 may certainly believe that this docket is very important (even “major”) for its operations in Oregon, and/or that the VNXX issues the Commission decided or the VoIP issues it deferred pending FCC guidance are “at the cutting edge,” Qwest does not believe this docket is the type of proceeding that the Legislature contemplated in enacting ORS 756.518(2) or that the Commission contemplated when it promulgated OAR 860-014-0023.

Accordingly, Qwest does not believe that Level 3 has made a formal request for oral argument. Moreover, even if Level 3 had done so, oral argument is not appropriate here because this docket has not been classified a “major proceeding,” and cannot be (and should not be) classified as such, either when the docket was opened in 2005, or now. Thus, Qwest respectfully submits that the Commission should deny any request for oral argument.

Thank you for your consideration of this response.

Very truly yours,



Alex M. Duarte

cc: Ms. Lisa Rackner, Esq.

CERTIFICATE OF SERVICE VIA E-MAIL

I do hereby certify that a true and correct copy of the foregoing QWEST CORPORATION'S LETTER TO THE HONORABLE SAM PETRILLO was served on the 28th day of February, 2007 via e-mail electronic transmission upon the following individuals:

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DATED this 28th day of February, 2007.

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