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May 31, 2007

Ms. Carole Washburn
Executive Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr SW
P.O. Box 47250
Olympia, Washington 98504-7250

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STATE OF WASH
UTILITY DIVISION
COMMUNICATIONS

Re: Initial Brief of Electric Lightwave, LLC in UT-063038

Dear Ms. Washburn,

Enclosed for filing are an original and 12 copies of the Initial Brief of Electric Lightwave, LLC in UT-063038. If you have questions regarding this filing, please don't hesitate to contact me.

Very truly yours,

Charles L. Best
VP Government Affairs
WSB No. 31943

cc: All Parties of Record

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION**

QWEST CORPORATION,

Complainant,

v.

LEVEL 3 COMMUNICATIONS LLC;)	DOCKET NO. UT -063038
PAC-WEST TELECOMM, INC.;)	
NORTHWEST TELEPHONE INC.;)	
TCG-SEATTLE; ELECTRIC)	
LIGHTWAVE, INC; ADVANCED)	INITIAL BRIEF OF
TELECOM GROUP, INC. D/B/A)	ELECTRIC LIGHTWAVE,
ESCELON TELECOM, INC.;)	LLC.
FOCAL COMMUNICATIONS)	
CORPORATION; GLOBAL CROSSING)	
LOCAL SERVICES, INC; AND, MCI)	
WORLDCOM COMMUNICATIONS,)	
INC.)	
)	
Respondents.)	
_____)	

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I. INTRODUCTION

This Case was initiated when Qwest Corporation (Qwest) filed a complaint against Electric Lightwave, LLC (ELI) and virtually every other CLEC in Washington claiming a variety of violations of industry rules and Washington State law for providing what Qwest calls “Virtual NXX” (VNXX) service. The service ELI offers which is Price Listed in Washington as “Virtual Foreign Exchange” is functionally equivalent from a customer’s perspective to Qwest’s FX service and does not violate any state or industry rules. In its complaint, Qwest only relied on an imbalance of minutes between Qwest and the CLECs to show that the traffic was largely one-way and therefore must represent ISP bound traffic. Qwest argues that ELI’s use of VNXX is in fact toll by-pass.

Qwest also alleges that to provide “foreign exchange” (FX), all carriers must provide it exactly like Qwest does and locate a switch in every local calling area a CLEC wishes to serve as well as use a dedicated “private line” to serve the end-user customer. Otherwise, the service should be characterized as a toll service.

The evidence in this case establishes that Qwest’s provision of FX is based on legacy monopoly technology which could not be replicated in a cost efficient manner. CLECs like ELI use more modern methods which provide a functionally equivalent service for customers which utilizes fewer resources. The VNXX provided by ELI is no more toll bypass than Qwest’s FX service and to allow Qwest to dictate what FX looks like will create a new monopoly in Washington for FX like services.

