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**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF LEVEL 3  
COMMUNICATIONS, LLC'S PETITION FOR  
ARBITRATION PURSUANT TO SECTION  
252(b) OF THE COMMUNICATIONS ACT OF  
1934, AS AMENDED BY THE  
TELECOMMUNICATIONS ACT OF 1996,  
AND THE APPLICABLE STATE LAWS FOR  
THE RATES, TERMS, AND CONDITIONS OF  
INTERCONNECTION WITH QWEST  
CORPORATION

Docket No.: QWE-T-05-11

**QWEST CORPORATION'S  
SUBMISSION OF SUPPLEMENTAL  
AUTHORITY RELATING TO  
LEVEL 3'S MOTION TO COMPEL**

Qwest Corporation ("Qwest"), by and through its attorneys, hereby submits the following attachments:

- Order Denying Request for Hearing and Granting in Part and Denying in Part Motion to Compel ("Iowa Order") entered on August 16, 2005 by the Iowa Utilities Board in response to a Motion of Compel filed by Level 3 Communications ("Level 3"). The Iowa Order is attached hereto as Exhibit A.

- Interim Order of Administrative Law Judge Dale E. Isley Rejecting Notice of Supplemental Authority; Denying Motion for Leave to Respond as Moot; and Granting Motion to Compel, in Part (“Colorado Order”) entered on August 31, 2005 by the Public Utilities Commission of the State of Colorado in response to a Motion to Compel filed by Level 3. The Colorado Order is attached hereto as Exhibit B.
- Procedural Order (“Arizona Order”) entered by the Arizona Corporation Commission in response to a Motion to Compel filed by Level 3. The Arizona Order is attached hereto as Exhibit C.

The issues raised in Level 3’s Iowa, Colorado, and Arizona motions are not completely identical to those in the Motion to Compel currently under consideration by the Idaho Public Utilities Commission (“Commission”), but the differences are minimal. A key element of all of these orders is that where the commissions ordered Qwest to respond, they limited the required responses to state-specific information.

Because the numbering for the requests in other states and the Idaho requests are not identical, the following chart is submitted so that the Commission and the Arbitrator may correlate the attached order with the discovery requests at issue in Idaho.

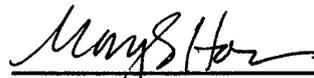
<b>Idaho Requests</b>	<b>Corresponding Iowa Requests</b>	<b>Corresponding Colorado Requests</b>	<b>Corresponding Arizona Requests</b>
4	3	4	4
5	6	7	7
11	12	13	13
12	13 (no motion filed in Iowa)	14	14
13	14	15	15
14	17 and 18	16 and 17	16 and 17
15	19	18	18
16	20	19	19
17	21	20	20
18	23	21	21

22	26 (no motion in Iowa)	25	25
23	27	26	26
24	28	27	27
25	29 (no motion in Iowa)	28	28
26	30 (no motion in Iowa)	29	29
27	31 (no motion in Iowa)	30	30
28	32 (no motion in Iowa)	31	31
29	33	32	32
30	34	No equivalent	No equivalent
31	35	33	33
41	45	43	43
43	47	45	45

Qwest Corporation hereby requests that the Commission and the Arbitrator review the attached orders as part of their deliberations on the pending Motion to Compel.

DATED: September 13, 2005.

STOEL RIVES LLP




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Mary S. Hobson

*Attorneys for Qwest Corporation*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 13<sup>th</sup> day of September, 2005, I served the foregoing **QWEST CORPORATION'S SUBMISSION OF SUPPLEMENTAL AUTHORITY RELATING TO LEVEL 3'S MOTION TO COMPEL** upon all parties of record in this matter as follows:

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# **EXHIBIT A**

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

<p>IN RE:</p> <p>LEVEL 3 COMMUNICATIONS, LLC,</p> <p style="padding-left: 100px;">Petitioner,</p> <p style="padding-left: 100px;">vs.</p> <p>QWEST CORPORATION,</p> <p style="padding-left: 100px;">Respondent.</p>	<p>DOCKET NO. ARB-05-4</p>
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**ORDER DENYING REQUEST FOR HEARING AND  
GRANTING IN PART AND DENYING IN PART MOTION TO COMPEL**

(Issued August 16, 2005)

**BACKGROUND**

On June 30, 2005, Level 3 Communications, LLC (Level 3), filed with the Utilities Board (Board) a motion to compel discovery in Docket No. ARB-05-4, asking the Board to issue an order requiring Qwest Corporation (Qwest) to immediately provide substantive responses to Level 3's first set of data requests.

On July 7, 2005, Qwest filed its response to Level 3's motion to compel discovery. Qwest stated that it answered approximately 70 of the 106 data requests and that Qwest objected to the remaining requests. Qwest stated that Level 3 did not challenge any of these objections and, therefore, the Board should dismiss Level 3's motion.

Four weeks later, on August 5, 2005, Level 3 filed a further motion to compel responses to its first set of data requests, a request for oral hearing, and a motion for extension of time. Level 3 stated that it will be prejudiced if it is required to prepare its rebuttal testimony before it receives Qwest's responses to Level 3's data requests. Level 3 also sought an amendment of the procedural schedule to allow for the submission of rebuttal testimony on or before August 19, 2005, instead of August 12, 2005.

On August 9, 2005, the Board issued an order in this docket requiring Qwest to file a response to Level 3's August 5 motion on or before August 10, 2005. Also in that order, the Board denied Level 3's request to amend the procedural schedule because such an amendment would not provide the Board sufficient time to prepare for the hearing in this docket.

On August 10, 2005, Qwest filed a response to Level 3's August 5 motion. In its response, Qwest states that many of Level 3's requests are unreasonable, overly broad, and are not likely to lead to the discovery of admissible evidence. Qwest requests the Board deny Level 3's motion.

As part of its August 5 motion, Level 3 requests a hearing before the Board regarding its motion to compel. The Board notes that Level 3's initial motion to compel data requests was filed with the Board on June 30, 2005, and Qwest filed its initial response on July 7, 2005. The Board did not receive any additional information

from either party regarding improper requests or inadequate responses until Level 3's August 5 motion, nearly a month after Qwest's response.

Pursuant to an agreement by the parties, the deadline for Board action in this docket is November 1, 2005, and the procedural schedule in this docket, as established in the Board's June 30, 2005, order, was created to give the parties due process and allow the Board to act on the petition in a timely manner. The hearing for this docket is scheduled for August 30, 2005, and various schedule conflicts preclude setting the hearing for a later date. Having lost a significant amount of time in an already tight schedule, a hearing at this time on Level 3's motion to compel would not allow the Board to act on the petition for arbitration in the time frame agreed by the parties. Therefore, the Board will not set Level 3's motion for hearing. Rather, the Board will rule on the motion based on the written submissions by both parties.

**DATA REQUEST NO. 3:**

In Data Request No. 3, Level 3 seeks information regarding Qwest's offering of Internet access services in Iowa, including the number of end user and wholesale customers Qwest has in Iowa. Level 3 also asks that the response include information regarding each end office in the state and a list of each local calling area in the state where Qwest maintains a physical presence.

Qwest objects to this request because it asks for information regarding end user customers and wholesale customers its affiliates have in Iowa, which constitutes

a trade secret and is highly confidential and proprietary. Qwest also objects to this request on the grounds that it is not relevant and will not result in the discovery of admissible evidence.

Level 3 states that this request is directly relevant to Issue 3 in its petition for arbitration and concerns whether the geographic location of the Internet service provider (ISP) is relevant to compensation exchanged by the parties for the transport and termination of ISP-bound traffic. Level 3 contends that the jurisdiction of calls should be determined by the NPA-NXX, in accordance with long-standing industry practice. Level 3 asserts that Qwest is attempting to rate traffic based upon the physical location of the customers, not the NPA-NXX. Level 3 also states that a protective order has been entered in this case and, therefore, Qwest's confidentiality objection is moot.

Qwest states that this request does not seek any information relevant to this proceeding. Qwest states that its position in this proceeding is that under the North American Numbering Plan (NANP), NPA-NXXs are supposed to be assigned to customers that are physically located in the same rate center to which the NPA-NXXs are assigned; thus, calls are rated as local or toll based on the rate centers in which the parties are located. Qwest states that this request does not seek information that relates to the assignment of NPA-NXXs and that the number of Qwest's Internet access customers has no bearing on the VNXX issue. Qwest also states that there

has not been any request made to the Board for the issuance of a protective order and that there is no protective agreement between Qwest and Level 3 in Iowa.

**Analysis**

The Board finds that Level 3's request, as written, is within the scope of this proceeding and could result in the production of admissible evidence. The Board will require Qwest to respond to Level 3's request. The Board also finds, however, that the number of end user customers and wholesale customers that Qwest has in Iowa is confidential in nature. Level 3 indicates that a protective order exists; Qwest states that there is not one. The Board notes that it has not been asked by either party to issue a protective order in this proceeding. Absent a protective agreement between the parties, Qwest will not be required to respond to Level 3's request with respect to specific customer count information.

**DATA REQUEST NO. 4:**

In Data Request No. 4, Level 3 asks for information regarding whether Qwest offers dedicated inward dialing (DID) or dedicated outward dialing (DOD) services to ISPs in Iowa.

Qwest's initial response states that it is in the process of preparing a response to this request.

Level 3 states that as of August 5, 2005, Qwest had not provided a response to this request.

Qwest responds by stating that it has now prepared and served an answer to Level 3's request.

**Analysis**

Based on Qwest's statement that it has prepared and served an answer to Level 3's request No. 4, the Board finds that this request has been satisfied.

**DATA REQUEST NO. 6(b):**

In its Data Request No. 6(b), Level 3 seeks the number of retail and wholesale customers of Voice over Internet Protocol (VoIP) in Iowa.

Qwest objects to this request on the grounds that the information is a trade secret and is confidential. Qwest also states that the request asks for information that is not relevant to this proceeding.

Level 3 states that the information requested in No. 6(b) is needed to demonstrate the effect that Qwest's VoIP interconnection proposal will have on Level 3.

Qwest states that Qwest does not offer VoIP and that it is the number of Level 3 VoIP customers that will determine the impact of Qwest's VoIP proposal on the Interconnection Agreement.

**Analysis**

The Board finds that Level 3's request, as written, is within the scope of this proceeding and could result in the production of admissible evidence. The Board will require Qwest to respond to Level 3's request. The Board also finds, however, that

the number of Qwest's retail and wholesale customers in Iowa is confidential in nature. Level 3 indicates that a protective order exists; Qwest states that there is not one. The Board notes that it has not been asked by either party to issue a protective order in this proceeding. Absent a protective agreement between the parties, Qwest will not be required to respond to Request No. 6(b) with respect to specific customer count information.

**DATA REQUEST NO. 6(e):**

In Data Request No. 6(e), Level 3 seeks to determine whether Qwest purchases any wholesale VoIP services from any other provider. Level 3's request also asks for the name of the provider, the services purchased, and the various states in which such service is purchased.

Qwest objects to this request on the grounds that the request seeks information concerning Qwest's purchases of services outside the state of Iowa and outside the 14-state territory where Qwest operates as the incumbent local exchange carrier (ILEC). Qwest also states that the request is overly broad, burdensome, and is not likely to lead to the discovery of admissible evidence.

Level 3 states that request No. 6(e) is relevant to the disputed issue regarding whether Qwest and Level 3 will compensate each other at the rate of \$0.0007 per minute of use for the exchange of IP-enabled or VoIP traffic. Level 3 also states that at a minimum, Qwest should be required to provide Iowa information in response to this request.

Qwest states that there is no justification for requesting Qwest to provide information pertaining to states outside of Iowa. Qwest also asserts that this request does not relate to whether Qwest and Level 3 will compensate each other at the rate of \$0.0007 per minute of use for VoIP traffic. Qwest again states that it does not offer VoIP.

### **Analysis**

The Board finds that Level 3's request, as written, is overly broad insofar as it seeks information regarding Qwest's purchases of services outside Iowa. It is unclear whether the information will lead to the production of relevant or admissible evidence. As such, the Board will require Qwest to respond to this request with Iowa information, to the extent it is available.

### **DATA REQUEST NO. 13**

In Data Request No. 13, Level 3 seeks information regarding every state in which Qwest or one of its affiliates offers service. The subparts to Request No. 13 seek information concerning five different circumstances.

Qwest objects to this request to the extent that it seeks information about states other than Iowa and says it is overbroad when it includes states in which Qwest is not the ILEC. Qwest also states that the request is irrelevant, overbroad, burdensome, and is not likely to lead to the discovery of admissible evidence.

Level 3 states that the information sought in this request is central to the disputed issue regarding whether Level 3 may exchange all traffic over the

interconnection trunks established under the Interconnection Agreement. Level 3 states that it seeks to use its existing trunk groups to exchange all traffic with Qwest, but Qwest seeks to limit Level 3's ability to use trunks efficiently. Level 3 states that information related to Qwest's current practices, the practices of its affiliates, and the obligations imposed on competitive local exchange carriers (CLECs) with which Qwest exchanges traffic, is central to understanding and rebutting Qwest's position in this proceeding.

Qwest states that it maintains its objection because Level 3 has not agreed to limit this request to the state of Iowa, to the commingling of traffic on interconnection trunks, or to interconnection with Qwest. Qwest also states that its affiliates do not have interconnection obligations under Section 251 of the Telecommunications Act of 1996 (the Act) and, therefore, this request is overbroad.

#### **Analysis**

The Board finds that Level 3's request, as written, is overly broad insofar as it seeks information regarding Qwest and Qwest's affiliates outside of Iowa. Qwest has not appeared to object to the production of the requested information as it relates to Iowa. As such, the Board will require Qwest to respond to this request with information limited to Iowa and limited to the commingling of traffic on interconnection trunks or to the interconnection with Qwest.

**DATA REQUEST NOS. 14, 17**

In Data Request Nos. 14 and 17, Level 3 seeks information concerning every local calling area in the country in which Qwest and Qwest's CLEC affiliates have trunk groups.

Qwest objects to these requests on the grounds that they are unduly burdensome, seek information about the activities of Qwest's affiliates in states other than Iowa, and are irrelevant and not likely to lead to the discovery of admissible evidence.

Level 3 states that the information sought in this request is central to the disputed issue regarding whether Level 3 may exchange all traffic over the interconnection trunks established under the Interconnection Agreement. Level 3 states that it seeks to use its existing trunk groups to exchange all traffic with Qwest, but Qwest seeks to limit Level 3's ability to use trunks efficiently. Level 3 states that information related to Qwest's current practices, the practices of its affiliates, and the obligations imposed on CLECs with which Qwest exchanges traffic is central to understanding and rebutting Qwest's position in this proceeding.

Qwest states that the requests are extraordinarily burdensome because there are thousands of local calling areas in the United States. Qwest also states that these requests seek information concerning trunk groups operated by Qwest's CLEC affiliates who are not parties to this proceeding.

### **Analysis**

The Board agrees with Qwest and finds this request to be unduly burdensome. Qwest is not required to respond to Data Request Nos. 14 and 17.

### **DATA REQUEST NO. 18**

In Data Request No. 18, Level 3 seeks information regarding the states in which Qwest combines CLEC local and toll traffic on a single trunk. The subparts of this request also ask Qwest to provide a list of all CLECs for whom Qwest combines traffic and when Qwest started to combine this traffic.

Qwest objects to this request on the grounds that it is unduly burdensome, seeks information about the activities of its affiliates in states other than Iowa, is irrelevant, and is not likely to lead to the discovery of admissible evidence.

Level 3 states that the information sought in this request is central to the disputed issue regarding whether Level 3 may exchange all traffic over the interconnection trunks established under the Interconnection Agreement. Level 3 states that it seeks to use its existing trunk groups to exchange all traffic with Qwest, but Qwest seeks to limit Level 3's ability to use trunks efficiently. Level 3 states that information related to Qwest's current practices, the practices of its affiliates, and the obligations imposed on CLECs with which Qwest exchanges traffic is central to understanding and rebutting Qwest's position in this proceeding.

Qwest states that this request is not limited to Iowa, to interconnection trunks, or to Qwest's ILEC operations. Qwest also states that Level 3 appears to want

Qwest to perform a historical study of traffic passing across trunk groups to determine when traffic was first combined.

**Analysis**

The Board finds that this request, as written, is overly broad insofar as it seeks information regarding Qwest and Qwest's affiliates outside of Iowa. Qwest has not appeared to object to the production of the requested information in Request No. 18(a) as it relates to Iowa. As such, the Board will require Qwest to respond to Request No. 18(a) with information limited to Iowa and limited to the commingling of traffic on interconnection trunks or to the interconnection with Qwest.

The Board finds the information sought in Request No. 18(b), however, to be overly broad and burdensome. Qwest is not required to respond to Request No. 18(b).

**DATA REQUEST NO. 20**

In Data Request No. 20, Level 3 seeks information regarding each CLEC with which Qwest exchanges local and toll traffic and uses a percent local use (PLU) or similar method of establishing the apportionment of local versus toll traffic on the combined trunk group in the 14 states where Qwest operates as an ILEC.

Qwest objects to this request on the grounds that it is unduly burdensome, seeks information about the activities of its affiliates in states other than Iowa, and is irrelevant and not likely to lead to the discovery of admissible evidence.

Level 3 states that the information sought in this request is central to the disputed issue regarding whether Level 3 may exchange all traffic over the interconnection trunks established under the Interconnection Agreement. Level 3 states that it seeks to use its existing trunk groups to exchange all traffic with Qwest, but Qwest seeks to limit Level 3's ability to use trunks efficiently. Level 3 states that information related to Qwest's current practices, the practices of its affiliates, and the obligations imposed on CLECs with which Qwest exchanges traffic is central to understanding and rebutting Qwest's position in this proceeding.

Qwest states that this request seeks information that is contained in the interconnection agreements for each CLEC in each of the 14 states where Qwest is the ILEC and that these interconnection agreements are publicly available to Level 3 through the various state public utility commissions. Qwest states that there are over 1,000 interconnection agreements on file throughout the 14 states where Qwest operates as the ILEC and that these agreements are more easily reviewed by Level 3 since Level 3 knows what specific information is wanted.

#### **Analysis**

The Board agrees with Qwest and finds that this request, as written, is overly broad insofar as it seeks information outside of Iowa. Qwest appears not to object to the production of the requested information in Request No. 20 as it relates to Iowa. As such, the Board will require Qwest to respond to Request No. 20 with information

limited to Iowa and limited to the interconnection agreements it has with CLECs in Iowa.

**DATA REQUEST NO. 21**

In Data Request No. 21, Level 3 seeks information regarding Qwest's CLEC affiliates and whether they combine local and toll traffic on a single trunk group. Level 3 also seeks information regarding whether Qwest's CLEC affiliates use a PLU or similar method of establishing the apportionment of local versus toll traffic on the combined trunk group.

Qwest objects to this request on the grounds that it seeks information regarding Qwest's affiliates' operations in states other than Iowa. Qwest also objects on the grounds that the request seeks information that is irrelevant and not likely to lead to the discovery of admissible evidence.

Level 3 states that the information sought in this request is central to the disputed issue regarding whether Level 3 may exchange all traffic over the interconnection trunks established under the Interconnection Agreement. Level 3 states that it seeks to use its existing trunk groups to exchange all traffic with Qwest, but Qwest seeks to limit Level 3's ability to use trunks efficiently. Level 3 states that information related to Qwest's current practices, the practices of its affiliates, and the obligations imposed on CLECs with which Qwest exchanges traffic, is central to understanding and rebutting Qwest's position in this proceeding.

Qwest states that this request is not limited to Iowa, to interconnection trunks, or to Qwest's ILEC operations. Qwest also states that Level 3 appears to want Qwest to perform a historical study of traffic passing across trunk groups to determine when traffic was first combined.

**Analysis**

The Board finds that this request, as written, is overly broad insofar as it seeks information regarding Qwest's affiliates outside of Iowa. Qwest appears not to object to the production of the requested information in Request No. 21 as it relates to Iowa. As such, the Board will require Qwest to respond to Request No. 21 with information limited to Iowa and limited to the commingling of traffic on interconnection trunks or to the interconnection with Qwest.

**DATA REQUEST NOS. 22 and 23**

In Data Request Nos. 22 and 23, Level 3 seeks information regarding each system that Qwest uses to estimate or track the amount of local and toll traffic exchanged with a CLEC and whether Qwest is aware of any state commissions that require separate trunk groups for transit traffic.

Qwest objects to these requests on the grounds that they are overbroad, seek information about Qwest operations in states other than Iowa, and that the requests seek information that is irrelevant and not likely to lead to the production of admissible evidence.

Level 3 states that the information sought in this request is central to the disputed issue regarding whether Level 3 may exchange all traffic over the interconnection trunks established under the Interconnection Agreement. Level 3 states that it seeks to use its existing trunk groups to exchange all traffic with Qwest, but Qwest seeks to limit Level 3's ability to use trunks efficiently. Level 3 states that information related to Qwest's current practices, the practices of its affiliates, and the obligations imposed on CLECs with which Qwest exchanges traffic is central to understanding and rebutting Qwest's position in this proceeding.

Qwest states that neither of these requests is limited to Iowa. Qwest also states, however, that if these two requests are limited to Iowa, Qwest will withdraw its objection and provide responses.

#### **Analysis**

Qwest has agreed to provide responses to Level 3 if these requests are limited to Iowa. The Board will require Qwest to respond to Requests Nos. 22 and 23 with information limited to Iowa.

#### **DATA REQUEST NO. 46**

In Data Request No. 46, Level 3 seeks information regarding the number of CLECs in Iowa for which Qwest assigns traffic to different jurisdictional or rating categories based on PLU or similar factors.

Qwest objects to this request on the grounds that it is burdensome and would require a special study. Qwest also objects on the grounds that the request is not likely to lead to the production of admissible evidence.

Level 3 states that the information sought in this request is central to the disputed issue regarding whether Level 3 may exchange all traffic over the interconnection trunks established under the Interconnection Agreement. Level 3 states that it seeks to use its existing trunk groups to exchange all traffic with Qwest, but Qwest seeks to limit Level 3's ability to use trunks efficiently. Level 3 states that information related to Qwest's current practices, the practices of its affiliates, and the obligations imposed on CLECs with which Qwest exchanges traffic is central to understanding and rebutting Qwest's position in this proceeding.

Qwest responds that it is not clear to Qwest what Level 3 means by "assign traffic to different jurisdictional" or rating categories. Qwest states that when PLU or similar factors are used, they are applied to an overall volume of traffic and are not used to determine the rating or jurisdiction of individual calls. Qwest reiterates that to answer this question would require a special study.

#### **Analysis**

The Board finds that based on Qwest's assertion that PLU factors are applied to an overall volume of traffic, this request is vague and ambiguous. The Board also finds that Level 3 has not established that Qwest should be required to conduct a

special study to answer this request. As such, the Board will not require Qwest to respond to Request No. 46.

**DATA REQUEST NOS. 27, 28, 32, and 33**

In Data Request Nos. 27, 28, 32, and 33, Level 3 seeks information regarding whether Qwest offers any foreign exchange (FX) or similar services. Specifically, Level 3 seeks information regarding the identification of FX or FX-like services, the product descriptions, the number of customers and lines in Iowa, how long the service has been ordered by Qwest, the number of ISPs that purchase the service, whether Qwest has billed or received reciprocal compensation or other terminating compensation for calls received from Qwest's FX or FX-like customers and details regarding such billings, and whether Qwest has paid access charges to the originating carrier for calls originated by another carrier and terminated to a Qwest FX or FX-like customer.

Qwest objects to these requests on the grounds that they seek information beyond Iowa, that Level 3 can obtain responsive information regarding these requests from its catalogs and tariffs, and that the requests seek confidential information. Qwest also objects on the grounds that the requests are overly burdensome and are irrelevant and not likely to result in the production of admissible evidence.

Level 3 states that the information sought in these requests is relevant to Issue 3, which involves whether intercarrier compensation applies to all ISP-Bound

traffic, including FX and FX-like services. Level 3 states that its service provides the same functionality as FX and FX-like services and that Qwest treats its FX and FX-like services as local service. Level 3 contends that Qwest seeks to impair Level 3's ability to compete with Qwest's FX and FX-like service by imposing access charges on Level 3's comparable FX service.

Qwest states that these requests are difficult to answer because Level 3 does not define what it means by "FX-like." Qwest asserts that it is Level 3's responsibility to provide the criteria to be used for determining whether services are FX-like. Qwest also states that the descriptions, terms, and conditions for the services Qwest offers are set forth in its tariffs and catalogs that are publicly available to Level 3. Qwest also states that none of these requests are limited to Iowa.

#### **Analysis**

The Board finds that despite Qwest's confusion over the definition of "FX-like," these requests are not vague or ambiguous. However, these requests, as written, are overly broad insofar as they seek information outside of Iowa. Qwest has not appeared to object to the production of the requested information in these requests as it relates to Iowa. As such, the Board will require Qwest to respond to Request Nos. 27, 28, 32, and 33 with information limited to Iowa.

#### **DATA REQUEST NOS. 45 and 47**

In Data Request Nos. 45 and 47, Level 3 seeks information regarding the number of points of interconnection (POIs) in Iowa between Qwest and CLECs, as

well as information regarding how many CLECs in Iowa connect to Qwest's network by means of a Qwest-supplied entrance facility, a CLEC-supplied facility, or some other means.

Qwest objects to these requests on the grounds that they are unreasonably burdensome and that providing a response would require a special study. Qwest also objects on the grounds that the information is not likely to lead to the production of admissible evidence.

Level 3 states that the information requested is relevant to Issue 1 of the arbitration proceeding regarding the number of POIs per LATA that may be allowed under the agreement.

Qwest states that to answer these requests, Qwest would have to review the interconnection arrangements that are in place for each CLEC that has an interconnection agreement in Iowa and conduct a special study of the facilities that are actually in place for each CLEC. Qwest states that there is no central repository of this information.

### **Analysis**

The Board finds that Request No. 45 regarding the number of POIs that exist in Iowa between Qwest and CLECs is reasonable. Qwest is required to respond to Request No. 45.

However, based on Qwest's statement that the information sought in Request No. 47 is not readily available in a central repository, the Board finds that this

request, as written, is unduly burdensome. Qwest is not required to submit a response to Data Request No. 47.

**REQUEST FOR ADMISSION NO. 66**

In Request for Admission No. 66, Level 3 asks Qwest to admit that Qwest's VoIP offering is less expensive than Qwest's Choice Home Plus package.

Qwest states that it cannot admit or deny this request because it is not clear what is being referred to by "Qwest VoIP offering."

Level 3 states that Qwest's objection is designed to avoid providing an easy explanation. Level 3 also states that the request is based upon information found on Qwest's Web site.

Qwest states that a review of the Web site cited by Level 3 indicates that both Qwest's VoIP offering and the Choice Home Plus package have a base rate plus a rate for other features and services such as long distance. Qwest asserts that Level 3 has not been clear what packages it wants Qwest to compare.

**Analysis**

It appears that this request seeks information that could easily be obtained by viewing the Web sites cited by Level 3 and further explored at hearing in this proceeding. Nevertheless, the Board finds Qwest's response to be inadequate. Qwest is required to admit or deny the request based on the base rate for the VoIP offering and Choice Home Plus.

**REQUESTS FOR ADMISSION NOS. 71, 72, 76, 77, 81, 95, 97, 98, 99, 101, and 102**

In these Requests for Admission, Level 3 asks for Qwest to admit or deny information relating to interconnection contract language (71), local exchange services (72), increased competition for wireline voice service (76), federal and state regulatory policies (77), end office and tandem switches (81), rules by the Federal Communications Commission (FCC) regarding interexchange carriers (95), collocation equipment (97), revenues for Qwest's local voice services (98), origination and termination of local calls by VoIP providers (99), and recent FCC orders (101 and 102).

Qwest objects to these requests on the grounds that they are overly broad and that there are too many variables to predict the result described is probable, along with other objections. Notwithstanding these objections, in each case Qwest provided some form of explanatory response supporting its reasons for declining to answer.

Level 3 asserts that Qwest has not provided rational, reasonable basis for its failure to admit or deny these requests.

Qwest states that its objections are reasonable and that it has stated its reasons for not being able to admit or deny each request.

**Analysis**

The Board has reviewed each of these Requests for Admission as well as Qwest's responses and objections. The Board finds that Qwest has provided

sufficient explanations regarding its inability to admit or deny each request and that Qwest has, in many cases, provided Level 3 with appropriate information that can be further explored at hearing in this proceeding, if necessary. Therefore, the Board finds that Requests for Admission Nos. 71, 72, 76, 77, 81, 95, 97, 98, 99, 101, and 102 have been adequately answered.

**REQUESTS FOR ADMISSION NOS. 57, 58, and 59**

In Requests for Admission Nos. 57, 58, and 59, Level 3 asks Qwest to admit or deny whether certain information exists in Qwest's federal and state tariffs regarding intercarrier compensation for VoIP traffic and information services.

Qwest objects to these requests on the grounds that they call for legal conclusions and are not appropriate subjects for discovery. Qwest also states that its state and federal tariffs speak for themselves.

Level 3 asserts that Qwest has failed to undertake a reasonable investigation of its tariffs to respond to these requests.

Qwest states that it clearly denied these requests for admission and that there is no failure by Qwest to respond to Level 3.

**Analysis**

The Board has reviewed these Requests for Admission as well as Qwest's responses and objections. The Board finds that Qwest denied Level 3's requests and supplied appropriate information in support of those denials that can be further

explored at hearing in this proceeding, if necessary. Therefore, the Board finds that Requests for Admission Nos. 57, 58, and 59 have been adequately answered.

**REQUESTS FOR ADMISSION NOS. 86 and 87**

Requests for Admission Nos. 86 and 87 ask Qwest to admit or deny information regarding Qwest's call routing systems and billing systems.

Qwest denies the requests and references previous responses to support its position.

Level 3 states that Qwest's responses are not responsive.

Qwest states that it denied these requests and has fully satisfied any obligation it has to respond to these requests.

**Analysis**

The Board has reviewed Requests for Admission Nos. 86 and 87 as well as Qwest's responses and objections. The Board finds that Qwest denied Level 3's requests and supplied appropriate information in support of those denials that can be further explored at hearing in this proceeding, if necessary. Therefore, the Board finds that Requests for Admission Nos. 86 and 87 have been adequately answered.

**IT IS THEREFORE ORDERED:**

1. The Motion to Compel Discovery Responses filed by Level 3 Communications, LLC, on June 30, 2005, and amended on August 5, 2005, is granted in part and denied in part as described in this order. Qwest is directed to

respond to the appropriate data requests and requests for admission within three days of the date of this order.

2. The request for hearing regarding the Motion to Compel Discovery Responses filed by Level 3 Communications, LLC, on August 5, 2005, is denied as described in this order.

3. On or before August 22, 2005, Level 3 Communications, LLC, may file supplemental testimony and exhibits based on the information produced in response to this order.

**UTILITIES BOARD**

/s/ John R. Norris

/s/ Diane Munns

ATTEST:

/s/ Margaret Munson  
Executive Secretary, Deputy

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 16<sup>th</sup> day of August, 2005.

## **EXHIBIT B**

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

DOCKET NO. 05B-210T

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IN THE MATTER OF LEVEL 3 COMMUNICATIONS, LLC'S PETITION FOR  
ARBITRATION PURSUANT TO SECTION 252(B) OF THE COMMUNICATIONS  
ACT OF 1934, AS AMENDED BY THE TELECOMMUNICATIONS ACT OF 1996,  
AND THE APPLICABLE STATE LAWS FOR RATES, TERMS, AND CONDITIONS  
OF INTERCONNECTION WITH QWEST CORPORATION.

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**INTERIM ORDER OF  
ADMINISTRATIVE LAW JUDGE  
DALE E. ISLEY  
REJECTING NOTICE OF SUPPLEMENTAL  
AUTHORITY; DENYING MOTION FOR  
LEAVE TO RESPOND AS MOOT; AND  
GRANTING MOTION TO COMPEL, IN PART**

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Mailed Date: August 31, 2005

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**I. STATEMENT**

1. On July 25 2005, Level 3 Communications, LLC (Level 3) filed a Motion for Variance of Rule 4 CCR 723-1-77(b)(4) (Motion for Variance), Motion to Compel Responses to Level 3's First Set of Interrogatories, Requests for Production of Documents and Requests for Admission (Motion to Compel). The Motion to Compel contained a request that response time thereto be shortened to three business days.<sup>1</sup> On July 28, 2005, Level 3 filed an Errata to the Motion to Compel.

2. On July 27, 2005, Qwest Corporation (Qwest) filed a Response to Level 3 Communications, LLC's Request for Shortened Response Time and Motion to Strike Motion to Compel (Motion to Strike).

3. The Motion for Variance was granted and the Motion to Strike was denied on August 3, 2005. *See*, Decision No. R05-0950-I.

4. On August 12, 2005, Qwest filed its Response to the Motion to Compel (Response).

5. On August 19, 2005, Qwest filed a pleading entitled "Notice of Supplemental Authority" (Notice) in connection with the Motion to Compel. The Notice included orders issued by the State of Iowa Department of Commerce Board and the Arizona Corporation

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<sup>1</sup> On August 1, 2005, the procedural schedule previously established in this proceeding was suspended in order to facilitate resolution of the discovery dispute raised by the Motion to Compel. *See*, Decision No. R05-0946-I. This effectively rendered Level 3's request for shortened response time to the Motion to Compel moot.

Commission ruling on motions to compel filed by Level 3 in connection with similar discovery served on Qwest in interconnection arbitration proceedings currently pending in those jurisdictions.

6. On August 23, 2005, Level 3 filed a Motion for Leave to Respond to the Notice (Motion for Leave). The Motion for Leave included Level 3's Response to the Notice.

7. While Qwest's efforts to keep this Commission apprised of developments in other jurisdictions relating to parallel interconnection arbitration proceedings are appreciated, the Notice does not provide proper legal authority that would assist it in fashioning a ruling in connection with the Motion to Compel. Simply put, this Commission's ruling on the Motion to Compel must be rendered independently of the decisions reached in other jurisdictions concerning similar motions. As a result, the Notice will be rejected. This renders the Motion for Leave moot and it will, therefore, be denied for that reason.

8. The Motion to Compel seeks responses to various discovery requests directed to Qwest in connection with four main issues raised in this proceeding.<sup>2</sup> Level 3 generally contends that the information sought is relevant or is designed to lead to the discovery of relevant information relating to these four issues. Qwest generally contends that such information is either irrelevant or is proprietary and, therefore, need not be produced. A discussion of the specific discovery requests encompassed by the Motion to Compel follows.

**A. Interrogatory No. 4**

9. Interrogatory No. 4 asks whether Qwest offers Internet access services in Colorado and, if so, how many end user customers and wholesale customers it has. It requests

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<sup>2</sup> These four issues, as framed by Level 3, are set forth at page 3 of the Motion to Compel. They are referred to herein as Issues 1, 2, 3, and 4 respectively.

that Qwest identify each telephone company end office in which Qwest has collocated equipment and the telephone company that owns or operates each end office. It also requests that Qwest list each local calling area within the state in which it maintains a physical presence as defined in Section 4-Definitions VNXX Traffic of Qwest's proposed changes to the parties' Interconnection Agreement (Agreement). Level 3 contends that this information is relevant to Issue 3 and that Qwest's confidentiality objections are moot in light of the protective order previously entered in this case.<sup>3</sup>

10. Qwest objects to responding to Interrogatory No. 4 on the ground that it seeks confidential and proprietary information. Qwest also contends that the information sought does not relate to the numbering assignment rule for the assignment of NPA-NXXs and, therefore, is irrelevant.

11. Qwest is ordered to respond to Interrogatory No. 4 since the issue of whether its proposals may afford different treatment to Level 3 than is afforded to other Internet Service Providers (ISPs) or its ISP affiliates in Colorado is relevant to this proceeding. The information to be produced by Qwest in response to Interrogatory No. 4 will be deemed to be confidential within the meaning of 4 *Code of Colorado Regulations* (CCR) 723-16-3 and its use will be governed by the provisions of that rule. If Qwest does not believe that this adequately addresses its confidentiality concerns it may seek further relief under the provisions of 4 CCR 723-3.2.

**B. Interrogatory No. 5**

12. Interrogatory No. 5 asks whether Qwest offers PRI or DID/DOD services to ISPs within Colorado. Qwest had originally objected to this discovery request on the ground that it

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<sup>3</sup> The Commission has not formally entered a protective order in this proceeding. However, Level 3's legal counsel and a number of other Level 3 representatives have submitted Nondisclosure Agreements pursuant to the provisions of 4 *Code of Colorado Regulations* 723-16-3.

was ambiguous. However, the Response indicates that Level 3 has clarified this request and that such clarification will now allow Qwest to respond to the same. Qwest shall, therefore, respond to Interrogatory No. 5.

**C. Interrogatory No. 7**

13. Interrogatory No. 7b seeks the number of retail and wholesale VoIP or ESP customers Qwest has in Colorado. Interrogatory No. 7e seeks to determine whether Qwest purchases any wholesale VoIP services from any other provider and, if so, from whom. Level 3 contends that the information requested by these portions of Interrogatory No. 7 is relevant to Issue No. 4 and is foundational to demonstrating the impact that Qwest's VoIP proposal will have on it.

14. Qwest objects to producing the information requested by Interrogatory No. 7b on confidentiality grounds. It also questions the relevancy of the information sought since Level 3 is requesting interconnection with Qwest, an entity that does not offer VoIP. Qwest objects to Interrogatory No. 7e on the ground that it is overbroad since it requests information relating to Qwest operations outside the State of Colorado.

15. Qwest is ordered to respond to Interrogatory No. 7b since the issue of whether its proposals may afford different treatment to Level 3 than is afforded to other VoIP providers in Colorado is relevant to this proceeding. The information to be produced by Qwest in response to Interrogatory No. 7b will be deemed to be confidential within the meaning of 4 CCR 723-16-3 and its use will be governed by the provisions of that rule. If Qwest does not believe that this adequately addresses its confidentiality concerns it may seek further relief under the provisions of 4 CCR 723-3.2.

16. The information sought by Interrogatory No. 7e is not relevant to the interconnection issues involved in this proceeding, nor is it designed to lead to the discovery of relevant information. In addition, the information requested in Interrogatory No. 7e is within the control of a third party and requiring its production by Qwest would be burdensome.

**D. Interrogatory Nos. 14, 15, 16, 17, 19, 20, 21, 22, and 44**

17. Level 3 groups Interrogatory Nos. 14, 15, 16, 17, 19, 20, 21, 22, and 44 together since, in its opinion, they seek information concerning Qwest's affiliates' use of combined trunk groups; Qwest's imposition of separate trunking obligations upon other competitive local exchange carriers (CLECs); Qwest's, or any other local exchange carriers (LECs) that deliver traffic to Qwest, use of traffic apportionment factors, such as percent interstate usage (PIU) and percent local usage (PLU); as well as Qwest's knowledge of any state commissions that have required separate trunk groups. Level 3 contends that the subject information is relevant to Issue 2, whether Level 3 may exchange all traffic over the interconnection trunks established under the Agreement. Qwest generally contends that Level 3 has inappropriately lumped these interrogatories together and has treated them in a broad fashion in order to conceal their burdensome and irrelevant nature. A summary of these interrogatories and Qwest's objections/responses thereto are contained in Chart 1 attached to the Motion to Compel.

18. Interrogatory No. 14 requests that Qwest identify every state in which it combines local and toll traffic on the same trunk group at any point in Qwest's transmission of traffic. Subsections a through e of this interrogatory then request Qwest to identify which of five situations apply with regard to such traffic. Qwest contends that Interrogatory No. 14 is overly broad since it requests information relating to operations outside Colorado and since subsections a, b, and e do not involve interconnection.

19. The information requested in Interrogatory Nos. 14c and d is relevant to this proceeding or could lead to the discovery of relevant information, but only to the extent such information relates to Qwest's Colorado operations. Therefore, Qwest is ordered to respond to Interrogatory Nos. 14c and d subject to that limitation. The remaining portions of Interrogatory No. 14 seek information relating to operations in states other than Colorado or for non-interconnection trunks. Those portions of Interrogatory No. 14 seek information that is not relevant to this proceeding or is overbroad.

20. Excluding those states in which Qwest operates as an incumbent local exchange carrier (ILEC), Interrogatory No. 15 asks that Qwest identify which states, and which calling areas within those states, its CLEC affiliates combine their own local and toll traffic on a single trunk. Qwest contends that Interrogatory No. 15 is extraordinarily burdensome since it calls for information concerning thousands of local calling areas in the country in which its CLEC affiliates have trunk groups. It points out that these affiliates are not parties to this proceeding and that the information requested by these interrogatories is not limited to interconnection trunks.

21. Qwest's operations outside the area in which it operates as an ILEC are not relevant to the issues involved in this proceeding. In addition, the information requested in Interrogatory No. 15 is within the control of a third party and requiring its production by Qwest would be burdensome. As a result, Qwest is not required to respond to Interrogatory No. 15.

22. Including those states in which Qwest operates as an ILEC, Interrogatory No. 16 asks that Qwest identify which states, and which calling areas within those states, its CLEC affiliates combine their own local and toll traffic on a single trunk. Qwest contends that Interrogatory No. 16 is extraordinarily burdensome since it calls for information concerning

thousands of local calling areas in the country in which its CLEC affiliates have trunk groups. It points out that these affiliates are not parties to this proceeding and that the information requested by these interrogatories is not limited to interconnection trunks.

23. The information requested in Interrogatory No. 16 is relevant to this proceeding, but only to the extent such information relates to Qwest's Colorado operations over its interconnection trunks. Therefore, Qwest is ordered to respond to Interrogatory No. 16 subject to those limitations. Those portions of Interrogatory No. 16 that seek information relating to operations in states other than Colorado or for non-interconnection trunks are not relevant to this proceeding or are overbroad.

24. Of those states in which Qwest operates as an ILEC, Interrogatory No. 17 asks Qwest to identify those states in which it combines CLEC local and toll traffic on a single trunk. Subsections a and b then request an identification of all CLECs for whom Qwest combines, or has combined local and toll traffic on a single trunk, as well as the month and year when it started to combine such traffic. Qwest contends that Interrogatory No. 17 is overly broad since it requests information relating to operations outside Colorado.

25. The information requested in Interrogatory No. 17a is relevant to this proceeding, but only to the extent such information relates to Qwest's Colorado operations. Therefore, Qwest is ordered to respond to Interrogatory No. 17a, subject to that limitation. That portion of Interrogatory No. 17a requesting information relating to operations in states other than Colorado is overly broad.

26. Producing the information requested in Interrogatory No. 17b would be burdensome and oppressive. Therefore, Qwest is not required to provide a response to Interrogatory No. 17b.

27. For each state in which Qwest operates as an ILEC, Interrogatory No. 19 asks Qwest to identify each CLEC with which it exchanges local and toll traffic on a single trunk group and uses a PLU or similar method of establishing the apportionment of local versus toll traffic on the combined trunk group. Qwest contends that Interrogatory No. 19 is overly broad since it requests information relating to operations outside Colorado. It also contends that such information is contained in publicly available interconnection agreements it has with CLECs in each state. Accordingly, it believes it is unreasonable and burdensome to require it to assemble this information.

28. The information requested in Interrogatory No. 19 is relevant to this proceeding, but only to the extent it relates to Qwest's Colorado operations. Therefore, Qwest is ordered to respond to Interrogatory No. 19, subject to that limitation. That portion of Interrogatory No. 19 requesting information relating to operations in states other than Colorado is overly broad.

29. For each state in which a Qwest CLEC affiliate combines local and toll traffic on a single trunk group, Interrogatory No. 20 asks that Qwest state whether its CLEC affiliate uses a PLU or similar method of establishing the apportionment of local versus toll traffic on the combined trunk group. Qwest contends that this interrogatory is burdensome since it calls for information concerning its CLEC affiliates in every state and would require a review of all its interconnection agreements in every state. It also points out that its affiliates are not parties to this proceeding and do not have interconnection obligations.

30. The information requested in Interrogatory No. 20 is relevant to this proceeding, but only to the extent it relates to Qwest's Colorado operations. Therefore, Qwest is ordered to respond to Interrogatory No. 20, subject to that limitation. That portion of Interrogatory No. 20 requesting information relating to operations in states other than Colorado is overly broad.

31. Interrogatory No. 21 asks Qwest to describe each system or method it uses to track or estimate the amount of local and toll traffic exchanged with a CLEC. Interrogatory No. 22 asks whether Qwest is aware of any state commission that has required separate trunk groups for transit traffic. Qwest objects to both interrogatories on the ground that they are overbroad by seeking information relating to states other than Colorado. It does not object to providing the requested information if limited to its Colorado operations. Qwest is ordered to respond to Interrogatory Nos. 21 and 22, but only to the extent such information relates to its Colorado operations. Those portions of Interrogatory Nos. 21 and 22 requesting information relating to operations in states other than Colorado are overly broad.

32. Interrogatory No. 44 asks for the number of CLECs in Colorado for which Qwest assigns traffic to different jurisdictional/rating categories based on PIU/PLU or similar factors. Qwest contends that this interrogatory is ambiguous since it cannot determine what Level 3 means by the phrase "assign traffic to different jurisdictional/rating categories." The phrase identified by Qwest in its response to Interrogatory No. 44 is ambiguous. Therefore, Qwest need not respond to that interrogatory.

**E. Interrogatory Nos. 26, 27, 31, and 32**

33. Level 3 groups Interrogatory Nos. 26, 27, 31, and 32 together since, in its opinion, they seek information concerning services that Qwest provides and considers to be Foreign Exchange (FX) or FX-like. Level 3 contends that the requested information is relevant to Issue 3, whether intercarrier compensation applies to all ISP-bound traffic, including VNXX traffic. Qwest objects to providing responses to these interrogatories on the ground that they seek information beyond Colorado, that they seek confidential information, or that they are overly broad and burdensome. It also contends that Level 3 can secure much of the requested

information from Qwest's filed tariffs or catalogs. It also contends that it is unable to respond to these interrogatories since Level 3 has failed to define the term "FX-like." A summary of these interrogatories and Qwest's objections/responses thereto are contained in Chart 2 attached to the Motion to Compel.

34. Interrogatory No. 26 asks whether Qwest offers any FX-like service other than service specifically described as Foreign Exchange. If so, it asks Qwest to name and provide service descriptions for each such service. Qwest contends that Interrogatory No. 26 is overly broad since it requests information relating to operations outside Colorado. It also contends that such information is contained in its tariffs or catalogs and, therefore, is readily available to Level 3.

35. It is unreasonable to expect Qwest to respond to Interrogatory No. 26 in the absence of a definition of the term "FX-like service." Information relating to the Colorado-related Qwest service offerings Level 3 may deem to be "FX-like" are contained in Qwest's tariffs and/or catalogs and, therefore, are readily available to Level 3. For these reasons, Qwest is not required to respond to Interrogatory No. 26.

36. Interrogatory No. 27 asks that Qwest provide additional information relating to the number of customers in Colorado who subscribe to its FX-like service, the number of lines over which such services are provided, how long each FX-like service has been available from Qwest, and the number of ISPs who purchase such services. Qwest objects to providing a response on confidentiality grounds.

37. Again, as with Interrogatory No. 26, it is unreasonable to expect Qwest to respond to Interrogatory No. 27 in the absence of a definition of the term "FX-like service." For this reason, Qwest is not required to provide a response to Interrogatory No. 27. Level 3 may wish to

resubmit this interrogatory once it has determined the Colorado-related Qwest service offerings it deems to be "FX-like."

38. Interrogatory No. 31 asks if there are any circumstances (and, if so, a description of such circumstances) in which Qwest has paid access charges to the originating carrier for a call originated by another carrier and terminated to a Qwest FX or FX-like customer. Qwest objects to this interrogatory on the ground that it is not limited to Colorado and that it is overly broad and burdensome.

39. The information requested in Interrogatory No. 31 is relevant to this proceeding, but only to the extent it relates to Qwest's Colorado operations. Also, for the reasons discussed above, the information requested by this interrogatory must be limited to FX services. Therefore, Qwest is ordered to respond to Interrogatory No. 31, subject to these limitations. That portion of Interrogatory No. 31 requesting information relating to operations in states other than Colorado and to FX-like services is overly broad.

40. Interrogatory No. 32 asks whether Qwest knows, or has reason to believe, that any independent LEC with whom Qwest has EAS arrangements provide FX or FX-like service that permits customers physically located in another rate center to be assigned a number that is local to the rate center included in Qwest's EAS area. Qwest objects to this interrogatory on the ground that it is not limited to Colorado and that it is overly broad and burdensome. It also contends that such information is available from the independent LECs that are the subject of this interrogatory and, therefore, is readily available to Level 3.

41. Information relating to FX or FX-like service independent Colorado LECs may provide are independently available to Level 3 from the LECs themselves or are on file with the

Commission and, therefore, publicly available to Level 3. For these reasons, Qwest is not required to provide a response to Interrogatory No. 32.

**F. Interrogatory No. 43**

42. Interrogatory No. 43 asks how many physical POIs exist in Colorado between Qwest and CLECs. Qwest objects to Interrogatory No. 43 on the ground that its is unreasonably burdensome and that providing a response would require a special study.

43. The information requested in Interrogatory No. 43 is relevant to this proceeding and, by its terms, is limited to Qwest's Colorado operations. The information relating to the number of POIs that exist in Colorado between Qwest and CLECs should be readily available to Qwest from a number of sources and, as a result, should not be burdensome to produce. Therefore, Qwest is ordered to respond to Interrogatory No. 43.

**G. Interrogatory No. 45**

44. Interrogatory No. 45 asks how many CLECs in Colorado connect to Qwest's network by means of: (a) a Qwest-supplied entrance facility running between Qwest's network and a CLEC switch; (b) a CLEC-supplied facility delivered to Qwest's network at or near a Qwest central office building; or (c) some other means. Qwest objects to Interrogatory No. 45 on the ground that it is unreasonably burdensome and that providing a response would require a special study.

45. The information requested by Interrogatory No. 45 is of questionable relevance to the issues involved in this proceeding and would be burdensome to produce. Therefore, Qwest is not required to respond to Interrogatory No. 45.

**H. Request for Admission Nos. 20, 27, 31, 36, 52, 53, 54, 56, and 57<sup>4</sup>**

46. Request for Admission (RA) No. 20 asks that Qwest admit that its OneFlex Voice over Internet Protocol VoIP offering is less expensive than its Choice Home Plus package. Qwest objects to RA 20 on the ground that it is ambiguous and compound.

47. RA 20 is ambiguous since it does not make clear which of the many possible versions of Qwest's VoIP offering it is referring to. Accordingly, Qwest is not required to respond to RA No. 20.

48. RA 26 requests that Qwest admit that interconnection contract language should be as consistent as possible with applicable federal law and regulations. Qwest objects to RA 26 on the ground that it calls for a legal conclusion and is overly broad. Qwest's supplemental response to RA 26 provides an explanation as to why it is unable to either admit or deny the same.

49. RA 26 is overly broad and is not capable of being admitted or denied in the absence of additional context. Accordingly, Qwest is not required to provide any additional response to RA No. 26.

50. RA 27 requests that Qwest admit that wireline local exchange services offered in Qwest's 14-state area are provided through legal entities which operate within authorized regions subject to regulation by each state in which they operate and by the Federal Communications Commission (FCC). Qwest objects to RA 27 on the ground that it is overly broad, ambiguous, burdensome, and calls for a legal conclusion. Qwest's supplemental response to RA 27 provides an explanation as to why it is unable to either admit or deny the same.

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<sup>4</sup> A summary of these requests for admission and Qwest's objections/responses thereto are contained in Chart 3 attached to the Motion to Compel.

51. RA 27 is ambiguous for, among other reasons, its failure to identify which of the many possible wireline local exchange services it is referring to. In addition, it is overly broad since it encompasses Qwest services offered outside Colorado. Accordingly, Qwest is not required to provide any additional response to RA No. 27.

52. RA 31 requests that Qwest admit that while the deployment of VoIP will result in increased competition for Qwest's core wireline voice services, it also presents growth opportunities for Qwest to develop new products for its customers. Qwest objects to RA 31 on the ground that it solicits an opinion on a matter that can only be the subject of speculation. Qwest's supplemental response to RA 31 provides an explanation as to why it is unable to either admit or deny the same.

53. RA 31 requires Qwest to speculate on a number of variables relating to the possible future outcome of its deployment of VoIP services. Such speculation would not be useful in deciding the issues raised by this proceeding. Accordingly, Qwest is not required to provide any additional response to RA No. 31.

54. RA 32 requests that Qwest admit that it favors federal and state legislative and regulatory policies which support the development of facilities-based competition. Qwest objects to RA 32 on the ground that it is ambiguous and seeks an opinion and, therefore, is not an appropriate subject for a request for admission. Qwest's supplemental response to RA 32 provides an explanation as to why it is unable to either admit or deny the same.

55. RA 32 is overly broad and ambiguous and, therefore, is not capable of being admitted or denied in the absence of additional context. Accordingly, Qwest is not required to provide any additional response to RA No. 32.

56. RA 36 requests that Qwest admit that its end office and tandem switches do not store any information indicating the address or location of any end user's premises. Qwest's supplemental response to RA 36 provides an adequate explanation as to why it can neither admit nor deny RA 36. Accordingly, Qwest is not required to provide any additional response to RA No. 36.

57. RA 50 requests that Qwest admit that the FCC's rules contain no definition of the term "interexchange carrier." Qwest objects to RA 50 on the ground that it calls for a legal conclusion and, therefore, is not an appropriate subject for a request for admission. Qwest's supplemental response to RA 50 provides an explanation as to why it is unable to either admit or deny the same.

58. Qwest has provided an adequate explanation as to why it can neither admit nor deny RA 50. Accordingly, it is not required to provide any additional response to RA No. 50.

59. RA 52 requests that Qwest admit that it physically collocates equipment at its or another carriers' switch or other location permitting collocation within the local calling area associated with each of the NPA-NXX codes that it uses to provide this service. Qwest objects to RA 52 on the ground that Level 3's failure to define the term "this service" makes it ambiguous.

60. Level 3's failure to define the term "this service" as used in RA 52 renders it ambiguous. Accordingly, Qwest is not required to provide any additional response to RA No. 52.

61. RA 53 requests that Qwest admit that revenue for its local voice services may be affected adversely should providers of VoIP services attract a sizable base of customers who use VoIP to bypass traditional LECs. Qwest objects to RA 53 on the ground that it is ambiguous and

calls for speculation. Qwest's supplemental response to RA 53 provides an explanation as to why it is unable to either admit or deny the same.

62. RA 53 requires Qwest to speculate on a number of variables relating to the possible future outcome of its deployment of VoIP services. Such speculation would not be useful in deciding the issues raised by this proceeding. Accordingly, Qwest is not required to provide any additional response to RA No. 53.

63. RA 54 requests that Qwest admit that to the extent that VoIP networks or VoIP service providers bypass the traditional methods for originating and terminating local calls, these providers could enjoy a competitive advantage versus traditional carriers who must pay regulated carrier access and reciprocal compensation charges. Qwest objects to RA 54 on the ground that it is ambiguous and calls for speculation. Qwest's supplemental response to RA 54 provides an explanation as to why it is unable to either admit or deny the same.

64. RA 54 requires Qwest to speculate on a number of variables relating to the possible future outcome of its deployment of VoIP services. Such speculation would not be useful in deciding the issues raised by this proceeding. Accordingly, Qwest is not required to provide any additional response to RA No. 54.

65. RA 56 requests that Qwest admit that on October 18, 2004 the FCC released an Order forbearing from applying certain ISP reciprocal compensation interim rules adopted in its April 27, 2001 ISP-Remand Order that imposed a volume cap on the number of minutes of use of ISP-bound traffic subject to compensation and that required carriers to exchange ISP-bound traffic on a bill-and-keep basis if those carriers were not exchanging traffic pursuant to interconnection agreements prior to adoption of the April 27, 2001 Order. Qwest objects to RA 56 on the ground that it calls for a legal conclusion and, therefore, is not an appropriate

subject for a request for admission. Qwest's supplemental response to RA 56 provides an explanation as to why it is unable to either admit or deny the same.

66. Qwest has provided an adequate explanation as to why it can neither admit nor deny RA 56. Accordingly, it is not required to provide any additional response to RA No. 56.

67. RA 57 requests that Qwest admit that the effect of the FCC's October 18, 2004 Order may be to increase significantly Qwest's payments of reciprocal compensation. Qwest objects to RA 57 on the ground that it is ambiguous and calls for speculation. Qwest's supplemental response to RA 57 provides an explanation as to why it is unable to either admit or deny the same.

68. RA 57 requires Qwest to speculate on a number of variables relating to the possible effect of the FCC's October 18, 2004 Order. Such speculation would not be useful in deciding the issues raised by this proceeding. Accordingly, Qwest is not required to provide any additional response to RA No. 57.

**I. Request for Admission No. 49**

69. RA 49 requests that Qwest admit that where it proposed to rate ISP-bound traffic as toll traffic, Level 3 would pay Qwest \$0.068929MOU (state rate from tariff) so that Qwest would not instead pay Level 3 \$.0007 per MOU for terminating a call. Qwest objects to RA 49 on the ground that it is ambiguous and compound. The Response provides an explanation as to why Qwest is unable to either admit or deny the same.

70. RA 49 is ambiguous and compound. Qwest has provided an adequate explanation as to why it can neither admit nor deny RA 49. Accordingly, it is not required to provide any additional response to the same.

**J. Request for Admission Nos. 10, 11, 12, and 13**

71. RA 10 requests that Qwest admit that its federal tariffs contain no terms applicable to intercarrier compensation for Voice over Internet Protocol. Qwest objects to RA 10 on the ground that it calls for a legal conclusion and, therefore, is not an appropriate subject for a request for admission. Notwithstanding that objection, Qwest's supplemental responses clearly indicate that it has denied RA 10. Therefore, Qwest has provided an adequate response to RA 10 and is not required to provide any additional response.

72. RA 11 requests that Qwest admit that its state tariffs contain no terms applicable to intercarrier compensation for Voice over Internet Protocol traffic. Qwest objects to RA 11 on the ground that it calls for a legal conclusion and, therefore, is not an appropriate subject for a request for admission. Notwithstanding that objection, Qwest's supplemental responses clearly indicate that it has denied RA 11. Therefore, Qwest has provided an adequate response to RA 11 and is not required to provide any additional response.

73. RA 12 requests that Qwest admit that its federal tariffs contain no terms applicable to intercarrier compensation for information services traffic. Qwest objects to RA 12 on the ground that it calls for a legal conclusion and, therefore, is not an appropriate subject for a request for admission. Notwithstanding that objection, Qwest's supplemental responses clearly indicate that it has denied RA 12. Therefore, Qwest has provided an adequate response to RA 12 and is not required to provide any additional response.

74. RA 13 requests that Qwest admit that its state tariffs contain no terms applicable to intercarrier compensation for information services traffic. Qwest objects to RA 13 on the ground that it calls for a legal conclusion and, therefore, is not an appropriate subject for a request for admission. Notwithstanding that objection, Qwest's supplemental responses clearly

indicate that it has denied RA 13. Therefore, Qwest has provided an adequate response to RA 13 and is not required to provide any additional response.

**K. Request for Admission Nos. 41 and 42**

75. RA 41 requests that Qwest admit that its call routing systems never sample any data regarding the address or location of any end user's premises for purposes of routing a call. Qwest's supplemental responses clearly indicate that it has denied RA 41. Therefore, Qwest has provided an adequate response to RA 41 and is not required to provide any additional response.

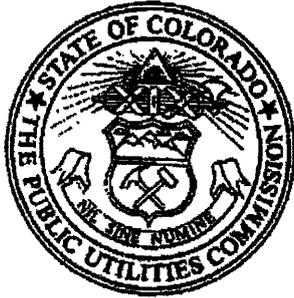
76. RA 42 requests that Qwest admit that its billing systems never sample any data regarding the address or location of any end user's premises for purposes of billing. Qwest's supplemental responses clearly indicate that it has denied RA 42. Therefore, Qwest has provided an adequate response to RA 42 and is not required to provide any additional response.

**II. ORDER**

**A. It Is Ordered That:**

1. The Notice of Supplemental Authority filed by Qwest Corporation is rejected.
2. The Motion for Leave to Respond to Qwest's Notice of Supplemental Authority filed by Level 3 Communications, LLC is denied as moot.
3. The Motion to Compel Responses to Level 3's First Set of Interrogatories, Requests for Production of Documents and Requests for Admission filed by Level 3 Communications, LLC is granted, in part, consistent with the terms of this Interim Order.
4. Qwest Corporation shall provide full and complete responses to Level 3's First Set of Interrogatories, Requests for Production of Documents and Requests for Admission as required by this Interim Order on or before September 9, 2005.
5. This Order shall be effective immediately.

(SEAL)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

DALE E. ISLEY

---

Administrative Law Judge

**EXHIBIT C**

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 JEFF HATCH-MILLER, Chairman  
4 WILLIAM A. MUNDELL  
5 MARC SPITZER  
6 MIKE GLEASON  
7 KRISTIN K. MAYES

8 IN THE MATTER OF THE PETITION OF LEVEL  
9 3 COMMUNICATIONS LLC FOR ARBITRATION  
10 OF AN INTERCONNECTION AGREEMENT  
11 WITH QWEST CORPORATION PURSUANT TO  
12 SECTION 252(b) OF THE  
13 TELECOMMUNICATIONS ACT OF 1996.

DOCKET NO. T-03654A-05-0350

DOCKET NO. T-01051B-05-0350

PROCEDURAL ORDER

14 **BY THE COMMISSION:**

15 Pursuant to the verbal request of the parties, on August 3, 2005, the Arbitrator in the above-  
16 captioned matter heard oral argument on a Motion to Compel brought by Level 3 Communications,  
17 LLC ("Level 3") against Qwest Corporation ("Qwest") in the above captioned arbitration. During the  
18 course of the August 3, 2005 proceeding, the parties were able to narrow somewhat the issues in  
19 dispute, but because of the extensive scope of the Motion to Compel, the Arbitrator requested that  
20 Level 3 file a written Motion.

21 On August 8, 2005, Level 3 filed its written Motion to Compel. Level 3 identified at least 36  
22 different Data Requests and Requests for Admission for which it believed Qwest's objections were  
23 baseless or its responses inadequate. Level 3 also requests an extension for the discovery cutoff  
24 deadline.

25 On August 12, 2005, Qwest filed its Response.

26 **Data Request No. 4 – Qwest Internet Access Service**

27 Level 3's Data Request No. 4 asks if Qwest offers Internet access service in the state and how  
28 many end user and wholesale customers Qwest has. It requests that that Qwest identify each end  
office in which Qwest has collated certain equipment and list each local calling area within the state  
in which Qwest maintains a physical presence. Qwest objected to the request because it called for  
proprietary information related to the operations of Qwest's affiliates and sought information that was  
not relevant to the proceeding.

1 Level 3 argues that its request is relevant to the third issue in this proceeding which Level 3  
2 identifies as whether Qwest's election to be subject to the *ISP-Remand Order* for the exchange of  
3 ISP-bound traffic requires Qwest to compensate Level 3 for ISP-bound Traffic at the rate of \$0.0007  
4 per minute of use. Level 3 asserts it is relevant to the question of whether the geographic location of  
5 the ISP is relevant to the compensation exchanged by the parties for the transport and termination of  
6 ISP-bound traffic. According to Level 3, the information is also relevant to the question of whether  
7 Qwest treats its affiliates the same as it treats Level 3. Qwest argues that Data Request No. 4 does  
8 not seek information in any way relating to the numbering assignment rule for the assignment of  
9 NPA-NXXs.

10 Resolution:

11 Whether Qwest's proposals discriminate against Level 3 in Arizona are relevant to this  
12 proceeding. The information sought in this Data Request appears reasonably calculated to lead to the  
13 discovery of admissible evidence. Any proprietary information should be protected by the existence  
14 of the Protective Agreement between the parties. Consequently, Qwest should respond as soon as  
15 possible to this Data Request.

16 **Data Request No. 5 – PRI or DID/DOD Service**

17 Level 3's Data Request No. 5 asks whether Qwest offers PRI or DID (Dedicated In  
18 Dialing)/DOD (Dedicated Out Dialing) service to ISP customers in the state and if so, does Qwest  
19 pay carriers originating access charges. According to Level 3, Qwest had not provided any response  
20 to this request. Qwest has indicated that Level 3 has clarified ambiguities in the question and that  
21 Qwest has served an answer. Qwest's response indicates that this dispute has been resolved.

22 **Data Request No. 7(b), 7 (c) and 7 (e) – Qwest's VoIP Service**

23 In Data Request 7(b), Level 3 requests that Qwest provide the number of retail and wholesale  
24 VoIP customers in the state. Data Request 7(c) asks for a list of each local calling area in which  
25 Qwest maintains a physical presence. Data Request 7(e) asks whether Qwest purchases any  
26 wholesale VoIP services from another provider, and if so, the name of the provider, the services  
27 purchased and the states in which such service is provided. Qwest objects to these Data Requests on  
28 the basis of relevancy.

1 Level 3 contends that VoIP is not subject to access charges, but that Qwest seeks to impose  
2 access charges on certain VoIP traffic, and that the information requested in 7(b) is necessary to  
3 demonstrate the impact that Qwest's VoIP proposal will have on Level 3. With respect to Data  
4 Request No. 7(e), Level 3 argues the information sought is relevant to determining whether Qwest's  
5 proposals discriminate against Level 3.

6 With respect to Data Request 7(b), Qwest argues that it is the number of Level 3 VoIP  
7 customers that will determine the "impact" on Level 3. Qwest states the relevant issue in this  
8 proceeding is the proper application of inter-carrier compensation rules, not the impact of those rules  
9 on one competitor.

10 Qwest states it is preparing a response to Date Request 7(c).

11 With respect to Data Request 7(e), Qwest argues that information concerning its affiliate,  
12 QCC's, wholesale providers and the service it purchases from them on a nationwide basis is overly  
13 broad and not relevant to this proceeding in Arizona. Qwest argues the only discrimination issue that  
14 could be relevant is whether Qwest is discriminating against Level 3 in favor of QCC in Arizona, and  
15 thus, this request goes far beyond the issues in the case and would be extremely burdensome and  
16 time-consuming for Qwest to provide. Qwest offered to provide the information sought in Data  
17 Request No. 7(e) for Arizona.

18 Resolution:

19 Similar to our finding with respect to Data Request No. 4, the issue of discrimination is  
20 relevant. Qwest should respond to Data Request 7(a). We agree, however, with Qwest that this  
21 proceeding involves an interconnection agreement in Arizona and that we are concerned with  
22 Qwest's practices in Arizona. Level 3's Data Request 7(e) is overly broad to the extent it seeks  
23 information concerning purchases outside of Arizona. Consequently, Qwest should be required to  
24 respond to Data Request 7(e) only as it would relate to Arizona.

25 **Data Request No. 8 – traffic exchange arrangements**

26 Data Request No. 8 asks Qwest to describe any traffic exchange arrangements applicable to  
27 enhanced or Internet Enabled services that Qwest has in Arizona with other ILECs, CLECs, or any  
28 other party.

1 Level 3 argues the arrangements that Qwest or a Qwest affiliate has with other LECs is  
2 directly relevant to the issue of whether Qwest, directly or indirectly, is acting in a discriminatory  
3 manner vis-a-vis Level 3. Level 3 asserts that in the past Qwest has taken the position that certain  
4 types of agreements need not be filed with the Commission, and that Qwest is in the best position to  
5 provide the requested information.

6 Qwest asserts that interconnection agreements between Qwest Corporation and CLECs or  
7 Qwest Corporation and QCC are on file with the Commission, and given the breadth and ambiguity  
8 of the inquiry, Level 3 is capable of reviewing the filed interconnection agreements in Arizona as  
9 easily as Qwest.

10 Resolution:

11 Despite Level 3's intimations that Qwest has not filed interconnection agreements, there is no  
12 evidence that subsequent to the resolution of the inquiry into Qwest's compliance with Section 252(e)  
13 of the Telecommunications Act in Decision No. 66949 (April 30, 2004), Qwest has not filed  
14 interconnection agreements, or that any interconnection agreements remain unfiled. We find that  
15 Level 3 can obtain the information it seeks in this Data Request from public sources and that Qwest  
16 should not be required to respond further.

17 **Data Requests Nos. 14, 15, 19, 20-21 and 44 – Efficient Use of Trunk Groups**

18 Level 3 groups these requests together and states that they seek information on the use of  
19 combined trunk groups by Qwest and Qwest affiliates; the imposition of separate trunking obligations  
20 upon other CLECs by Qwest; the use of traffic apportionment factors, such as percent interstate usage  
21 (PIU) and percent local usage (PLU), by Qwest or any other LEC that delivers traffic to Qwest; and  
22 Qwest's knowledge regarding any state commissions that have required separate trunk groups. Level  
23 3 states that one of the issues in this proceeding is whether Level 3 may exchange all traffic over the  
24 interconnection trunks established under the Interconnection Agreement. Level 3 seeks to use its  
25 existing trunk groups to exchange all traffic, but according to Level 3, Qwest seeks to limit Level 3's  
26 ability to use trunks efficiently by requiring Level 3 to establish separate Feature Group D trunks to  
27 transmit traffic Qwest claims is "toll" or otherwise subject to access rates. Level 3 argues that  
28 information related to Qwest's current practices, the practices of its affiliates, and the obligations

1 imposed on CLECs with whom Qwest exchanges traffic is central to understanding and rebutting  
2 Qwest's position in this proceeding. Level 3 argues that Qwest has provided no authority to support  
3 its argument that information regarding its affiliates and information about its business activities  
4 outside of Arizona are not within the realm of discovery. Level 3 argues that to the extent that Qwest  
5 has not required its affiliates or other CLECs to separate traffic onto different trunks and has  
6 employed PIUs, PLUs or some other traffic allocation factor to rate traffic, or has itself asserted its  
7 right to commingle traffic on trunk groups, such information is directly relevant to the reasonableness  
8 of a separate trunking requirement and possible discriminatory treatment.

9 Qwest asserts that to treat these Data Requests as a group conceals the fact that each request is  
10 extraordinarily burdensome and does not seek relevant information.

11 Data Request No. 14 requests Qwest to identify every state in which Qwest combines local  
12 (including intraMTA CMRS traffic) and toll traffic (including interLATA or IntraLATA toll traffic or  
13 any combination thereof) on the same trunk grouping in any of the following situations: 1) local and  
14 toll traffic are combined on a direct trunk group between two end offices; 2) local and toll traffic are  
15 combined on a trunk group between a Qwest end office and a Qwest tandem; 3) local and toll traffic  
16 combined on a trunk group between a Qwest end office and a third party carrier switch; 4) local and  
17 toll traffic are combined on a trunk group between a Qwest tandem and a third party switch; and 5)  
18 local and toll traffic are combined on a trunk group between two Qwest tandems. Qwest argues that  
19 Data Request No. 14 is overbroad as it requests information for every state in which Qwest or one of  
20 its affiliates operates and further, that only two of the circumstances listed involve interconnection.

21 Data Request No. 15 asks Qwest to identify the local calling areas ("LCAs") in states where  
22 Qwest does not operate as an ILEC, where Qwest's CLEC affiliates combine their own local and toll  
23 traffic on a single trunk. Qwest asserts that Data Request No. 15 calls for information involving  
24 thousands of LCAs and trunk groups operated by CLEC affiliates and is not in any way limited to  
25 interconnection trunks. Qwest claims this information could not possibly lead to the discovery of  
26 admissible evidence in this case. Qwest argues the burden imposed by Data Request No. 15 clearly  
27 outweighs any possible relevance of the information sought.

28 Data Request No. 17 asks that with respect to those states in which Qwest operates as an

1 ILEC, that it list each CLEC for which local and toll traffic has been combined on any trunk group.  
2 Qwest argues the request is extremely overreaching in scope and clearly not reasonably calculated to  
3 lead to the discovery of admissible evidence.

4 Data Request No. 19 requests information concerning specific CLECs that exchange local and  
5 toll traffic on a single trunk group and which uses PLU or similar method of apportionment in each of  
6 the 14 Qwest in-region states. Qwest argues this information is contained in the interconnection  
7 agreements for each CLEC in each state and which are publicly available to Level 3 and can be  
8 reviewed more easily by Level 3 as it knows what it is looking for. Qwest states there are over 1,000  
9 interconnection agreements on file with the state public utility commissions and it is unreasonable for  
10 Level 3 to insist that Qwest assemble the information on Level 3's behalf.

11 Data Request No. 20 requests Qwest to provide information concerning the use of PLU or  
12 similar apportionment method where a Qwest CLEC affiliate combines local and toll traffic on a  
13 single trunk. Qwest states this request is not limited to interconnection trunks, but even if it were, it  
14 would call for a review by Qwest of every interconnection agreement Qwest's CLEC affiliate has  
15 entered into anywhere in the United States. Qwest argues Data Request No. 20 is clearly  
16 unreasonable especially since Qwest's CLEC affiliates are not parties to this proceeding and do not  
17 have obligations to interconnect under Section 251 of the Act.

18 Data Request No. 21 asks Qwest to describe each system and/or method that Qwest uses to  
19 track or estimate the amount of local and toll traffic exchanged with a CLEC. Qwest does not object  
20 to this request if it is limited to the state of Arizona.

21 Data Request No. 44 asks for the number of CLECs in Arizona for which Qwest assigns  
22 traffic to different jurisdictional/rating categories based on PIU/PLU or similar factors. Qwest objects  
23 to Data Request No. 44 on the grounds it is ambiguous as to what Level 3 means by "assign traffic to  
24 different jurisdictional/rating categories." Qwest also objects because it is unreasonably burdensome  
25 and would require a special study.

26 Resolution:

27 As drafted Data Request No. 14 is overly broad and burdensome as it concerns agreements  
28 outside Arizona. Consequently, Qwest should be required to respond to Data Request No. 14 and its

1 subparts as it relates solely to Qwest Corporation.

2 Data Request No. 15 is overbroad as it is directed at obtaining information about the practices  
3 of Qwest's CLEC affiliate and is not relevant to the issues in this proceeding. Qwest should not be  
4 required to respond.

5 Data Requests Nos. 17, 19, 20 and 21 are overly broad to the extent they seek information  
6 regarding Qwest or Qwest's affiliate's operations outside of Arizona. Qwest should respond to each  
7 of these Data Requests as they relate to Arizona.

8 Data Request No. 44 is vague and ambiguous. Furthermore, Qwest should not be required to  
9 conduct a special study. Consequently, Qwest is not required to respond to this Data Request.

10 **Data Request No. 22 – Efficient Use of Trunk Groups**

11 Data Request No. 22 asks whether Qwest is aware of any state commission that has required  
12 separate trunk groups for transit traffic. Qwest objected on the grounds that the request is overbroad,  
13 unduly burdensome to the extent it is not limited to Qwest interconnection agreements and further it  
14 is tantamount to asking Qwest to do legal research for Level 3.

15 Resolution:

16 Data Request No. 22 is overbroad and Level 3 has equal access to the information sought.  
17 Qwest should not be required to respond further.

18 **Data Requests Nos. 24-27, 28(a), 29-33 – Qwest FX and FX-like Services**

19 Data Request No. 24 asks if Qwest provides any kind of foreign exchange ("FX") service in  
20 Arizona. Data Request No. 25 Requests information on the number of FX customers. Data Request  
21 No. 33 addresses whether FX service associated with broadband is treated differently than voice  
22 service. Neither Data Request Nos. 24 or 25 were included in Level 3's Matrix of disputed issues  
23 that was provided at the August 3, 2005 proceeding. During the August 3, 2005 proceeding, Level 3  
24 stated that it had included Data Request No. 33 in error. Qwest states that it has responded to these  
25 requests. Thus, no action is required concerning Data Requests Nos. 24, 25 and 33.

26 Data Requests Nos. 26, 27 and 28(a), and 29 through 32 seek information related to "FX-like"  
27 services. At the August 3, 2005 proceeding, Qwest agreed to respond to Data Requests Nos. 26-27,  
28 28(a) and 29-31 based on the definition of "FS-like service" used in interrogatories in a Level 3

1 complaint docket in Washington. Qwest states that it is in the process of responding to these  
2 requests, and will provide responses to Level 3 as soon as possible.

3 Data Request No. 32 asks whether Qwest knows or has reason to believe that any independent  
4 LEC with whom Qwest has EAS arrangements provide FX or FX-like services. Qwest states that it  
5 responded to Data Request No. 32. Data Request No. 32 was not included in Level 3's August 3,  
6 2005 Matrix.

7 Resolution:

8 Based on Qwest's previous responses to Data Request Nos. 24, 25, 32 and 33, and its  
9 commitment to respond to Data Requests 26, 27, 28(a), 29 and 30, we take no further action with  
10 respect to these items.

11 **Data Requests Nos. 43 and 45 – POIs and Other Facility Connections in Arizona**

12 Data Request No. 43 seeks the number of physical Points of Interconnection (POIs) in  
13 Arizona between Qwest and CLECs. Data Request No. 45 seeks the number of CLECs in Arizona  
14 that connect to Qwest's network by means of Qwest supplied entrance facilities, CLEC supplied  
15 facilities, and other means.

16 Qwest objects to these requests as it claims they do not bear on the issues in this proceeding  
17 and are burdensome. Qwest claims that to respond would require it to review the interconnection  
18 agreements in place for each CLEC that has an interconnection agreement in Arizona and to conduct  
19 a special study of the facilities that are actually in place for each CLEC.

20 Level 3 argues that these requests are relevant to the issue regarding the points of  
21 interconnection per LATA that may be allowed under the Interconnection Agreement. In addition,  
22 Level 3 states it is important for it to understand which points of interconnection Qwest considers to  
23 be POIs under Qwest's interpretation of the law.

24 Resolution:

25 Neither of these items were included on the August 3, 2005, Matrix nor discussed at that  
26 proceeding. However, we find Data Request No. 43 is relevant to the proceeding and Qwest should  
27 be required to respond. Because the data sought in Data Request No. 45 is not contained in a central  
28

1 repository, we find that it is unduly burdensome and Qwest should not be required to respond.

2 **Requests for Admission Nos. 55-59 – Qwest’s State and Federal tariffs**

3 In Requests for Admission Nos. 55-59, Level 3 seeks Qwest’s admission that certain  
4 information is not set forth in Qwest’s state or federal tariffs. Qwest denied each of the requests, but  
5 states that it did not conduct a review of the tariffs to ascertain the accuracy of its response. Level 3  
6 argues that Qwest has failed to undertake the reasonable investigation of its tariffs necessary to  
7 respond to these requests.

8 Resolution:

9 Qwest has responded to these requests. The tariffs speak for themselves and Level 3 is able to  
10 review them to obtain the information it desires. We do not require Qwest to respond further.

11 **Requests for Admissions Nos. 66, 82, 96 and 99**

12 Qwest neither admits nor denies Requests for Admissions Nos. 66, 82, 96 and 99. Level 3  
13 asserts that the Rules of Civil Procedure provide that to the extent a party cannot admit or deny a  
14 request for admission, the answer shall specifically set forth in detail the reasons why. Level 3 argues  
15 that Qwest has provided no reasonable bases for its failure to admit or deny.

16 Qwest claims it could neither admit nor deny the requests because they are not sufficiently  
17 complete. In Request for Admission No. 66, Level 3 asks Qwest to admit that the OneFlex VoIP  
18 offering is less expensive than the Choice Home Plus package. Qwest states that in its response, it  
19 stated that it is not clear which particular OneFlex VoIP or the precise Choice Home Plus package  
20 that it was meant to compare, this it could not be admitted or denied without further clarification.

21 Request for Admission No. 82 asks Qwest to admit that “Qwest’s end offices and tandem  
22 switches do not store *any information* indicating the *address or location* of any end user’s premises.”  
23 (emphasis added) Qwest acknowledges that the switches do not contain specific street addresses for  
24 individual customers, but states that they do contain information indicating the general geographic  
25 location. Qwest states it cannot admit or deny because Level 3 has failed to define the level of  
26 specificity that the phrase “any information” refers to. Qwest would deny the request on the basis  
27 that its switches do store information that indicates the location of a customer.

28 Request for Admission No. 96 asks Qwest to admit “that where Qwest proposes to rate ISP-

1 bound traffic as toll traffic, Level 3 would pay Qwest \$0.016270 per MOU instead of Qwest paying  
2 Level 3 \$.0007 per MOU for terminating a call received at the Parties' POI." Qwest objected on the  
3 ground that the request is ambiguous and compound.

4 Qwest states that Request for Admission No. 99 used the ambiguous term "this service"  
5 without identifying the particular service. Qwest further states that Level 3 has clarified the term to  
6 refer to the service in the preceding request. Qwest states that it will respond to this Request for  
7 Admission shortly.

8 Resolution:

9 As drafted, Request for Admission No. 66 does not provide sufficiently specific information  
10 to allow Qwest to admit or deny the request, and thus Qwest should not be required to admit or deny  
11 this request.

12 Through its explanation in its Response to the Motion to Compel, Qwest denies Request for  
13 Admission No. 82, thus no further action is required.

14 Request for Admission No. 96 is compound and ambiguous, Qwest should not be required to  
15 admit or deny this request.

16 **Request for Admission No. 88 – Qwest's call Routing and Billing System**

17 Request for Admission No. 88 asks Qwest to admit that its billing systems never sample any  
18 data regarding the address or location of any end user's premises for purposes of billing. Qwest  
19 denied this request "for the same reasons as set forth in Qwest's responses to Request Nos. 82 and  
20 86." Qwest states that the fact that it denied the request is fully responsive under applicable  
21 discovery rules.

22 Resolution:

23 Qwest has denied Request for Admission No. 88, thus, satisfying its obligations.

24 **Request for Admission No. 100 – Impact of VoIP Services on Qwest Revenue.**

25 Request No. 100 asks Qwest to admit its revenues may be adversely affected should  
26 "providers of VoIP services attract a sizeable base of customers who use VoIP to bypass traditional  
27 local exchange carriers." Qwest objected on the ground that this request is ambiguous and calls for  
28 speculation. Qwest further states that it could not admit or deny this request because there were too

1 many variables to predict the result.

2 As drafted Request for Admission No. 100 is ambiguous and Qwest should not be compelled  
3 to admit or deny.

4 IT IS THEREFORE ORDERED that Qwest shall respond to the outstanding Data Requests  
5 and Request for Admission as discussed herein by August 26, 2005.

6 IT IS FURTHER ORDERED that the deadline for filing discovery requests shall be extended  
7 until August 31, 2005, and that all responses to discovery requests shall be made within five days of  
8 receipt, and any objections made within three days of receipt.

9 IT IS FURTHER ORDERED that any rejoinder or surrebuttal testimony may be presented  
10 orally at the arbitration.

11 IT IS FURTHER ORDERED that the Arbitrator(s) may rescind, alter, amend, or waive any  
12 portion of this Procedural Order either by subsequent Procedural Order or by ruling at arbitration.

13 DATED this \_\_\_\_ day of August, 2005.

14

15

\_\_\_\_\_  
JANE L. RODDA  
ARBITRATOR

16

17 Copies of the foregoing mailed  
this \_\_\_\_ day of August, 2005 to:

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21 Secretary to Jane L. Rodda  
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