

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
2 COMMISSION

3 In the Matter of Level 3 )  
Communications, LLC's Petition )  
4 for Arbitration Pursuant to ) Docket No. UT-063006  
Section 252(b) of the ) Volume III  
5 Communications Act of 1934, as ) Pages 49 - 77  
Amended by the Telecommunications)  
6 Act of 1996, and the Applicable )  
State Laws for Rates, Terms, and )  
7 Conditions of Interconnection )  
with Qwest Corporation. )  
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10 A prehearing conference in the above matter  
11 was held on June 30, 2006, at 9:35 a.m., at 1300 South  
12 Evergreen Park Drive Southwest, Olympia, Washington,  
13 before Administrative Law Judge Ann Rendahl.

14 The parties were present as follows:

15 LEVEL 3 COMMUNICATIONS, LLC, by ERIK CECIL  
16 (via bridge), Regulatory Attorney, 1025 Eldorado  
Boulevard, Broomfield, Colorado 80021; telephone,  
17 (720) 888-1319.

18 LEVEL 3 COMMUNICATIONS, LLC, by SCOTT PORTER  
19 (via bridge), Regulatory Attorney, One Technology  
Center, Tulsa, Oklahoma 74103; telephone, (918)  
547-9880.

20 QWEST CORPORATION, by TED SMITH (via bridge),  
21 Attorney at Law, Stoel Rives, 201 South Main Street,  
Suite 1100, Salt Lake City, Utah 84111; telephone,  
22 (801) 578-6961.

23 QWEST CORPORATION, by THOMAS M. DETHLEFS (via  
bridge), Senior Attorney, 1801 California, Tenth Floor,  
24 Denver, Colorado 80202; telephone, (303) 383-6646.

25 Kathryn T. Wilson, CCR

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1                                   P R O C E E D I N G S

2                   JUDGE RENDAHL: We are now in a prehearing  
3 conference before the Washington Utilities and  
4 Transportation Commission in Docket UT-063006, which is  
5 a request for arbitration from Level 3 Communications,  
6 LLC, with Qwest Corporation.

7                   Today is Friday, June 30th, 2006, and we are  
8 here to have a scheduling conference to talk about  
9 whether or not to schedule a technical conference to  
10 discuss possible modification to the discovery cutoff  
11 date, and Qwest has requested that we also discuss the  
12 issue of changes to contract language, and before we go  
13 any further, I'm going to ask the parties to make  
14 appearances.

15                   When you make your appearance and later when  
16 you are stating anything, you need to identify  
17 yourself. Since this conference is being held  
18 primarily over the conference bridge, only I am in the  
19 room, and the court reporter needs to know who is  
20 speaking. So with that, let's hear first from Level 3.

21                   MR. CECIL: Your Honor, did you want  
22 Mr. Porter to go ahead and enter his appearance as this  
23 time?

24                   JUDGE RENDAHL: Yes.

25                   MR. PORTER: This is Scott Porter. I am

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1 counsel representing Level 3 Communications. My  
2 physical address is One Technology Center, Tulsa,  
3 Oklahoma, 74103. Phone number is (918) 547-9880, and  
4 fax number is (918) 547-9446.

5 JUDGE RENDAHL: Can you restate your zip  
6 code, please?

7 MR. PORTER: It's 74103.

8 JUDGE RENDAHL: And it's One Technology  
9 Center?

10 MR. PORTER: Yes, and that's the number "one"  
11 spelled out as opposed to the numeral one.

12 JUDGE RENDAHL: There is no suite number?

13 MR. PORTER: No.

14 JUDGE RENDAHL: Is this Level 3, or are you  
15 with a different group?

16 MR. PORTER: It is Level 3.

17 JUDGE RENDAHL: For Qwest?

18 MR. DETHLEFS: Tom Dethlefs, D-e-t-h-l-e-f-s.  
19 I'm with Qwest Corporation in the law department, and  
20 my address is --

21 JUDGE RENDAHL: Mr. Dethlefs, you don't need  
22 to state your full appearance since you appeared at the  
23 first prehearing conference. I asked Mr. Porter to  
24 state his full appearance since this is the first time  
25 we've heard from him.

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1                   MR. DETHLEFS: Okay. I appreciate that. We  
2 also have on the phone Mr. Ted Smith of the law firm  
3 Stoel Rives.

4                   MR. SMITH: And I believe I've given my  
5 information as well, Judge.

6                   JUDGE RENDAHL: Yes, you have, so thank you.  
7 With that, I would like to turn to this first issue  
8 very briefly, and Mr. Dethlefs, maybe you would like to  
9 tee it off on this issue of the contract language.

10                  MR. DETHLEFS: Yes, Your Honor. Level 3 has  
11 made contract language changes in other states. In the  
12 case of Oregon, for example, the changes were very  
13 extensive. In Minnesota, they were less extensive but  
14 there were some new issues, and we've been told by  
15 Level 3 in response to an e-mail that Mr. Smith sent a  
16 week or two ago that they were contemplating making  
17 changes in Washington.

18                  If they are along the lines of very small  
19 changes, that's one thing. If they are going to make  
20 more extensive changes, that's another, so I just want  
21 to know what they are going to do so that we have an  
22 opportunity to at least in one round of testimony  
23 address the changes to the contract language, and if  
24 they are going to be extensive, I think that creates a  
25 problem for the first round of testimony, because we

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1 did go through and compare ours to theirs, and if  
2 theirs changes substantially, it's going to make that  
3 first round of testimony kind of incoherent. So that's  
4 our concern, and I don't know what the proper way to  
5 address it is except to hear from Level 3 as to what  
6 they are contemplating doing.

7 JUDGE RENDAHL: Mr. Cecil?

8 MR. CECIL: Your Honor, Tom is exactly right.  
9 He raises Oregon. In Oregon, actually, the judge at  
10 the conclusion of the technical conference on the  
11 record requested the parties to propose compromised  
12 language under Oregon law, so according to Oregon law,  
13 Level 3 accepted that invitation.

14 So in that case, we did, and in that case,  
15 the parties agreed to have new rounds of testimony as a  
16 result of what happened. Actually, we see it as fairly  
17 specific to Oregon law and the process of the case  
18 there, so the way we addressed that was by actually  
19 providing new testimony.

20 In Minnesota, the parties routinely update  
21 contract language. The issues that Tom raises are  
22 issues that we had discussed in Colorado and in other  
23 states, and when we do update contract language,  
24 because this case has been going on for over a year  
25 now, typically Qwest updates their language.

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1           As to Washington, it's our anticipation not  
2 to make significant changes. These cases kind of sit  
3 for awhile. You go back and look at them and you  
4 notice, for example, a definition no longer makes sense  
5 or there was some mistake or as a result of a  
6 proceeding somewhere or something that we've learned or  
7 they've learned, we've updated, and Qwest and Level 3  
8 have always actually worked together fairly well to do  
9 that, but it's not my anticipation at this time that  
10 there would be any significant changes to the contract  
11 language for the state of Washington.

12           JUDGE RENDAHL: When are you anticipating  
13 making these changes and filing them with the  
14 Commission?

15           MR. CECIL: I believe we have a deadline in  
16 the schedule for the filing of a joint disputed points  
17 list, and we continue to attempt to negotiate with  
18 Qwest. We had some problems with that. We had about a  
19 three-month spell where we couldn't get together for  
20 negotiations, but fortunately, negotiations towards  
21 resolving other issues has resumed, and we have been  
22 clearing some other issues off of the table.

23           I think suffice it to say, I don't anticipate  
24 anything more than cleanup issues in Washington unless  
25 there are changes in Washington or unless you decide as

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1 a result of what you see that you want the parties to  
2 get back together, discuss things, and try to work out  
3 issues. Level 3 is always amenable to that.

4 JUDGE RENDAHL: First of all in our schedule,  
5 I don't see a deadline for a joint disputed issues  
6 list.

7 MR. CECIL: I thought we had one in  
8 Washington.

9 JUDGE RENDAHL: I'm looking at the procedural  
10 schedule in appendix B to the Order No. 2, and it's not  
11 included there. It may be you all agreed amongst  
12 yourselves.

13 Now, I'm a bit concerned that there is no  
14 communication between the two parties prior to July  
15 14th, and so what I would request that you do,  
16 Mr. Cecil, is if there are things that you know you are  
17 going to be proposing as a change in the language that  
18 by next Friday at the very latest, you identify for  
19 Qwest which sections you are intending to change and  
20 what the substance of those changes are.

21 MR. CECIL: Absolutely. Tom indicated,  
22 because actually, I think Ted has been communicating  
23 with Mr. Thayer because I've been busy, but it's my  
24 understanding there were communications going on  
25 regarding Washington, so I thought that the parties had

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1 been discussing that, but if there is any particular  
2 concerns, we absolutely will address those as soon as  
3 possible.

4 JUDGE RENDAHL: My concern too, Mr. Cecil, is  
5 if there is something on that list that is so  
6 substantial that Qwest is going to need additional time  
7 on the testimony, then I need to know about it  
8 immediately.

9 MR. CECIL: Absolutely, and again, I don't  
10 anticipate significant changes. The only state where  
11 there have been substantial changes was Oregon where  
12 the Commission asked us to and we established a new  
13 schedule because of that.

14 The changes that happened with Minnesota had  
15 been actually changes that Qwest and Level 3 had been  
16 discussing probably since, at least to my recollection,  
17 at least six months prior to filing them, because we  
18 had been discussing those in several hearings coming up  
19 on the Minnesota hearing, and as a result, those  
20 changes were filed in a timely manner according to the  
21 procedural schedule in Minnesota, so that was dealt  
22 with correctly under the Minnesota order.

23 It doesn't benefit anybody to play games with  
24 testimony or contract language. That's not our intent  
25 at all.



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1           JUDGE RENDAHL: Sometimes parties believe  
2 they are communicating and it doesn't actually happen.  
3 So to ensure that it happens, I'm going to put in my  
4 prehearing conference order today that's going to go  
5 out that Level 3 needs to communicate with Qwest by  
6 next Friday at the latest as to what changes it's  
7 proposing for contract language so that Qwest can be  
8 prepared to address that in its testimony, and if they  
9 are so substantial it's not going to work, Qwest can  
10 propose a change in the time for responsive testimony.

11           Moving on to the next issue, the question of  
12 the discovery cutoff, right now, it's set on the  
13 schedule for July 12th, and that was based on a  
14 deadline for responsive testimony coming in on June  
15 30th. Now, that date has now been modified so  
16 responsive testimony is now coming in on July 14th. Do  
17 the parties need to modify the discovery cutoff date?

18           MR. CECIL: Level 3 would be agreeable to  
19 moving that out by two weeks, Your Honor.

20           MR. DETHLEFS: We agree to that. That makes  
21 sense.

22           JUDGE RENDAHL: So instead of being due on  
23 the 12th, we now have a discovery cutoff of July 26th.  
24 Does that work for the parties?

25           MR. CECIL: Yes, that works.

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1 MR. DETHLEFS: Yes, that works.

2 JUDGE RENDAHL: So I'll make that change to  
3 the schedule as well. Now the issue that we've all  
4 been waiting for, the issue of the technical  
5 conference. Mr. Cecil, if you could briefly describe  
6 why you think the technical conference is necessary and  
7 what it is exactly you are seeking and when that will  
8 tee off the discussion.

9 MR. CECIL: Level 3 believes that it's  
10 critical that we have an opportunity that the  
11 Commission and the judges and you, Your Honor, have an  
12 opportunity to fully explore the issues, and especially  
13 the technical issues in this case.

14 Because of the nature of this case, we  
15 believe this is incredibly critical, and the case in  
16 point is we've had decisions where -- for example, in  
17 Arizona we had a decision where had the Commission not  
18 adopted an interim solution, it was our strong belief  
19 that all of our traffic would have been declared  
20 illegal essentially overnight for the entire state of  
21 Arizona, and the Arizona Commission staff agreed with  
22 Level 3, and the Commission ultimately adopted an  
23 amendment to that order to insure that that didn't  
24 happen. We've had technical conferences in Oregon.  
25 Well, we actually had two technical conferences, one

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1 with staff and another that Judge Patrillo decided to  
2 hold on the record, and we've done a technical  
3 conference with staff in New Mexico.

4           We just believe that unless we do this,  
5 unless there is a full opportunity for the decision  
6 makers to ask the questions and to get the documents  
7 and look at the actual network configurations and how  
8 this actually works, the hearing is going to be nearly  
9 meaningless, because it's going to be cross-examination  
10 from attorneys asking questions that matter to briefs,  
11 and we've done this case for -- I think we have 30 days  
12 total in hearing right now where this case has been  
13 going on for over a year. We are in our fifth or sixth  
14 state hearing.

15           The attorneys know exactly what they need and  
16 don't need for their briefs, and everything that we've  
17 heard has not been helpful. We just don't believe that  
18 there is -- and Arizona was a state where we didn't  
19 have a technical conference, and we see that as a key  
20 reason that Commissioners were actually often offering  
21 last-minute changes to the recommended order and  
22 opinion there.

23           So we would again strongly urge consideration  
24 or request that we do a technical conference.

25           JUDGE RENDAHL: And what exactly do you

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1 envision the technical conference to look like?

2 MR. CECIL: Essentially that any staff that  
3 feels they need to participate and any decision makers  
4 be able to -- let me explain how it worked, for  
5 example, in Oregon.

6 We provided maps of our network and we  
7 provided schematic diagrams of the call flows that are  
8 at issue in this case, and we provided exact technical  
9 detail as to what our network looks like, where an  
10 interconnection occurs, where circuits actually are,  
11 and we provided that to the Commission, and then we  
12 brought our technical experts, and the lawyers kept out  
13 of it, and we allowed the technical experts to explain  
14 the networks, and then the judges and the staff asked  
15 questions, and Qwest brings their technical folks and  
16 they do the same, and essentially, we allow the  
17 technical folks to talk and essentially keep the  
18 lawyers out of it.

19 The reports that we've heard back from staff  
20 and others is that that has been very helpful to  
21 actually understanding the issues in this case because  
22 the testimony tends to look like two ships passing in  
23 the night.

24 JUDGE RENDAHL: Are the technical experts the  
25 same as the witnesses in the case, or are they

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1 different?

2 MR. CECIL: Typically they are the same as  
3 the witnesses. Well, they are the witnesses. We  
4 brought up Mac Green, who is a witness in this case.  
5 In Oregon, Ken Wilson came and provided information and  
6 he filed testimony. If Ken can't come up in this case,  
7 we will have Mac come up.

8 You might have witness concerns or  
9 evidentiary concerns depending on how you handle those  
10 issues procedurally, but for Level 3, we have Mac  
11 Green, who actually runs our interconnection  
12 nationwide, explain how our interconnection works,  
13 where all of our equipment is located in pretty great  
14 detail, and how things work in an all-IP network, which  
15 is actually far different from how it works on a  
16 circuit switch network.

17 JUDGE RENDAHL: We will leave the details to  
18 later. At the conference in Oregon where Judge  
19 Patrillo had the conference on the record, was it the  
20 same format that just on the record?

21 MR. CECIL: Correct, and we have a transcript  
22 of that conference as well.

23 JUDGE RENDAHL: Did Judge Patrillo allow the  
24 other parties' technical experts to ask questions of  
25 each other?

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1 MR. CECIL: Correct, they did.

2 JUDGE RENDAHL: So after Mr. Green gave his  
3 explanation and the judge and the staff had an  
4 opportunity for questions, then Qwest's technical  
5 witness had an opportunity to ask questions as well?

6 MR. CECIL: Correct.

7 MR. SMITH: Your Honor, this is Ted Smith.  
8 Judge Patrillo also allowed counsel to ask questions as  
9 well.

10 JUDGE RENDAHL: All right.

11 MR. SMITH: They weren't in the form of  
12 typical cross-examination. They went to more technical  
13 issues, but it was not just limited to experts talking  
14 to experts.

15 MR. CECIL: I would submit for consideration  
16 that the most useful questions come from the technical  
17 experts to the technical experts. I think that the  
18 lawyer questions aren't necessarily as helpful, and for  
19 Level 3, I certainly would be willing to waive any  
20 questions from counsel, but if that's necessary, then  
21 it's necessary. I think they tend to bleed over very  
22 quickly into areas of law.

23 JUDGE RENDAHL: One last question for you and  
24 then I'm going to turn to Qwest. When did you propose  
25 to have this conference in our procedural schedule?

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1           MR. CECIL: Well, I think it was actually in  
2 the procedural order. I think it was Paragraph 7 you  
3 mentioned, because we had discussed this quite some  
4 time ago. We were hoping to have it before the  
5 hearing, and we had asked Qwest a number of times over  
6 a several-month period to try to get dates, but we were  
7 unable to get confirmation on any dates.

8           At this point, we would propose that we set  
9 aside the first day. I think a day is all we need, the  
10 first day that we have, because I think we have five  
11 days scheduled for hearing, and do the technical  
12 conference on that first day and then just proceed to  
13 the hearing. That's one way of doing it.

14           All the other dates that we had proposed both  
15 mid, early July, late July, early August, we were  
16 unable to confirm with Qwest. It took a long time to  
17 get it done, and by the time we got to getting  
18 responses on dates, all of their witnesses and their  
19 technical experts -- in Oregon, they brought the same  
20 witnesses that filed testimony in this case -- all  
21 those dates were gone.

22           So the only date that I see that we could  
23 schedule this for anymore would be the date of the  
24 hearing and take one, maybe two days, but I think we  
25 can get it done in a day.

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1                   JUDGE RENDAHL: Mr. Dethlefs or Mr. Smith,  
2 who wishes to take this up?

3                   MR. DETHLEFS: As we informed you I think at  
4 the last time we were all in Washington for the motion  
5 to compel, we are not opposed to a technical  
6 conference. We don't see the same value as Level 3,  
7 and wherever we've done the technical conference, we've  
8 asked that the regulatory issues be allowed to be  
9 discussed at the same time.

10                   The reason for that is Level 3 thinks that  
11 the key to the case are the technical issues. Qwest  
12 believes that the key to the case are the regulatory  
13 issues, and we don't want to be put in a position where  
14 the one side basically gets to present its case and  
15 address the issues in the context that it wants and  
16 then the other side doesn't get that same opportunity.

17                   We had originally been asked by Level 3 to  
18 agree to some dates before the hearing, and they asked,  
19 I believe, for July 30th or something like that, and we  
20 confirmed that those days worked for us. Over the  
21 course of the next month, our witnesses have gotten  
22 tied up. They've got a number of other hearings going  
23 on, and when you have a technical conference set apart  
24 from the hearing, that basically doubles the travel  
25 time for everybody, which was causing some



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1 inconveniences and some conflicts for our witnesses.

2           When Level 3 said can we still do it on July  
3 30th, we told them that that time -- and I don't know  
4 if I got the exact date right. I thought it was July  
5 30th -- by the time they had come back to us, the  
6 conflicts had arisen and it wasn't available then.

7           We don't have a problem with doing it the  
8 first day of the hearing, and that way, it's -- I  
9 question whether it makes sense to have something  
10 different than a normal hearing format if it's going to  
11 be done then, but that's workable for us, and once  
12 again, the key driver for us is what you want. If you  
13 were to ask us what our preference is, we would  
14 probably say we should just go through the normal  
15 format for the hearing. We don't think the technical  
16 conference really adds much. Level 3 has a different  
17 opinion, but we are interested in doing what you want  
18 us to do, so if that's your preference, we will do  
19 that.

20           If you would rather have the technical  
21 conference set apart earlier than the hearing, we will  
22 accommodate that as well. It does present more  
23 problems for our witnesses because this is being  
24 proposed in every state in which we have an  
25 arbitration, so we are basically taking up much more

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1 time than we otherwise would have.

2 JUDGE RENDAHL: If there is a technical  
3 conference -- either you or Mr. Smith had weighed in  
4 about the more formal on-the-record technical  
5 conference in Oregon -- would you have an objection to  
6 the process that was held in Oregon?

7 MR. DETHLEFS: What happened in Oregon is  
8 agreeable to us, but the ALJ, as Mr. Smith said,  
9 basically turned it over to anyone at Qwest who wanted  
10 to ask questions, and then Mr. Smith proceeded to do  
11 what essentially was a cross-examination.

12 JUDGE RENDAHL: That's not my interest in  
13 this, I can let you know.

14 MR. DETHLEFS: If you want to do it just with  
15 the witnesses talking to each other, we are okay with  
16 that. The one thing that did not work, I don't think,  
17 in Oregon was they tape-recorded the hearing. There  
18 was no court reporter, and I haven't gone through the  
19 transcript to make sure they've got the right person  
20 saying the right things, but it was pretty unwieldy to  
21 do it that way. We prefer to have a court reporter  
22 present.

23 JUDGE RENDAHL: My plan is to have a court  
24 reporter present if we do this. It would not be done  
25 by tape recorder. Is there anything else you want to

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1 add to this discussion of a technical conference?

2 MR. DETHLEFS: No, nothing further.

3 JUDGE RENDAHL: I think in consulting with  
4 the staff assigned to this matter, I think there is an  
5 interest on our part in having a technical conference,  
6 and we were thinking that it would be best to do this  
7 about two weeks before the hearing, but I understand  
8 the conflicting schedules, and if it's not possible to  
9 do it, it looks like the week of the 31st of July is  
10 out, and I'm wondering about the week of August 7th.

11 MR. SMITH: From my own personal perspective,  
12 I will be on vacation that week.

13 JUDGE RENDAHL: The week of the 7th?

14 MR. SMITH: The week of the 7th.

15 MR. CECIL: Actually, it looks like I won't  
16 be available, but I'm fairly certain that another  
17 attorney that -- actually, Rick Thayer would be  
18 available, and I'll double-check, but I believe Mac  
19 Green would be available.

20 MR. DETHLEFS: I would have to check with my  
21 witnesses, but I would be available that week. I've  
22 got a conflict the first week, the week that has August  
23 1st and 2nd in it, but the next week I'm open.

24 JUDGE RENDAHL: So the week of the 7th you  
25 would be open?

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1 MR. DETHLEFS: Yes.

2 JUDGE RENDAHL: Refresh my memory, because to  
3 be honest, I've been tied up in other matters and have  
4 not yet read the direct testimony. Who are Qwest's  
5 witnesses or witness?

6 MR. DETHLEFS: The two people we would have  
7 talk -- you mean for the hearing or for the technical  
8 conference?

9 JUDGE RENDAHL: For the technical conference.

10 MR. DETHLEFS: The two people we normally  
11 bring are Phil Linse and Larry Brotherson. Larry  
12 because he's familiar with what QCC does and Phil  
13 because he's a person familiar with what Qwest  
14 Corporation does.

15 MR. SMITH: Bill Easton, who is actually  
16 located in Seattle, is the third witness. His issues  
17 have not been the central discussion at technical  
18 conferences, but given that he's in Seattle, it's  
19 relatively easy for him to attend.

20 JUDGE RENDAHL: And so for Level 3,  
21 Mr. Cecil, would it just be Mr. Green?

22 MR. CECIL: Yeah. I think we would just have  
23 Mr. Green. If it were helpful, we can have Ken Wilson  
24 come up, but if there were objections from Qwest as to  
25 having Ken Wilson at the technical conference, I don't

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1 think that would be too big of a deal. I think we  
2 could have Mr. Green handle it.

3 As to Qwest, actually, Bill Easton does  
4 discuss the billing issues, so if he's in Seattle and  
5 available, that might be helpful. I think that's an  
6 area worthy of exploration at some point.

7 JUDGE RENDAHL: I guess I would ask all of  
8 you to confer with your witnesses and see if there is a  
9 possible date the week of the 7th of August. If that's  
10 not possible, I'm happy to do this the week of the  
11 hearing, and we do it the first day of hearing, which  
12 is Monday the 21st. That leads me to my next question  
13 which is do you anticipate needing all five days of  
14 hearing?

15 MR. CECIL: It's been actually our experience  
16 that the technical conference is so terribly helpful  
17 for actually making things clearer that it actually  
18 reduces the amount of time we think we will need in  
19 hearing.

20 So if we get a technical conference, it's to  
21 thinking ahead towards the cross-examination that I  
22 would prepare and have ready. I think I could get  
23 through all the cross I need in a day or less.

24 JUDGE RENDAHL: So what I'm thinking is if we  
25 had the technical conference on the 21st -- I'll get to

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1 Qwest in just a minute -- took a day and then had the  
2 remainder of the hearing the next three days, that's a  
3 possibility, or if you all don't want to be here on  
4 Friday and want to fly home on Thursday, we can just  
5 plug through and finish by Thursday. Any response from  
6 Qwest, Mr. Dethlefs or Mr. Smith?

7 MR. DETHLEFS: As I understand what you just  
8 proposed, we would have, assuming the technical  
9 conference earlier in August didn't work, we would have  
10 a technical conference on the 21st, take a day off on  
11 that Tuesday, and then finish the hearing the next  
12 three days?

13 JUDGE RENDAHL: That's one option, or we have  
14 the technical conference on Monday and then just start  
15 the hearing on Tuesday, and then if we are done  
16 earlier, you all don't have to be here and fly home on  
17 a Friday, which I know is always interesting for  
18 business travel.

19 MR. DETHLEFS: Either of those would work.  
20 It might make sense to take that day off so that you  
21 have some kind of gap where you can digest the  
22 technical information and perhaps do follow-up  
23 afterwards, but I will check with our witnesses to see  
24 if they are available that week of the 7th. I just  
25 sent out an e-mail to them, and I would anticipate

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1 being able to get back to you very quickly.

2 JUDGE RENDAHL: Those are the two proposals I  
3 have. We would like to have a technical conference.  
4 Our preference would be to schedule it earlier before  
5 the hearing to give time to digest, but if we need to,  
6 we will do it on the 21st, and then it doesn't matter  
7 to me whether we have a day off in between or not. I  
8 just put that out as a possibility.

9 In terms of the actual mechanics of the  
10 conference, I would definitely make sure we have a  
11 court reporter here transcribing it, and depending on  
12 the number of witnesses, I will schedule a specific  
13 time period for each witness to give a brief  
14 presentation and then first allow the Commission's  
15 technical staff to ask questions. I would then ask any  
16 additional questions I would have and then allow  
17 Qwest's technical staff witnesses to ask any questions  
18 they might have, and then I would not allow the  
19 cross-examination by attorneys because we are -- it's  
20 very likely going to be part of the hearing or will  
21 quickly be followed by a hearing.

22 The purpose of the conference is to clarify  
23 any technical issues, and if there is anything else we  
24 need to get into, since this is on the record, it can  
25 be addressed in hearing, and then we will move on to

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1 the next witness. Really I see this as clarifying  
2 technical issues, and I can see the point of the  
3 regulatory issues. I don't have any objection to that,  
4 but I think this should be focused primarily on any  
5 technical issues, and that's not limited to the actual  
6 physical network. I think some of the regulatory  
7 issues are highly technical as well, but I don't want  
8 to get into analysis of legal argument, because that  
9 can be addressed in brief and has been done so fairly  
10 extensively. That's kind of where I am on that.

11 I have a question after talking to our  
12 technical staff here. Would it be useful to have, for  
13 example, a setup for, say, Power Point slides and then  
14 have the parties have available paper copies of  
15 whatever presentation they are going to make, or is  
16 that not useful?

17 MR. CECIL: That would be very useful. I  
18 think that one thing we found very helpful is drawing  
19 pictures, looking at things, and the network actually  
20 laid out, and then, of course, some of the more  
21 technical issues you can get to or the technical  
22 regulatory issues.

23 JUDGE RENDAHL: I don't want to invite long  
24 presentations by a Power Point. If there are certain  
25 slides that might be useful to have up on Power Point,



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1 we would make the equipment available for that.

2 MR. CECIL: That would be fine. What we've  
3 done where we haven't had that available is we have a  
4 plotter here that prints out about three-foot-wide  
5 pieces of paper and we've put the whole network up on  
6 that, and we can bring that as well. I'm not talking  
7 about extensive Power Point, but having a map up there  
8 or a big piece of paper where you can ask questions or  
9 several of them so if you draw on them, that's fine.

10 JUDGE RENDAHL: I will leave the  
11 demonstrative exhibits to you, but we will make sure  
12 that there is the ability to have Power Point or other  
13 presentation available, but I don't want that to  
14 dominate the discussion. I see this more as an  
15 opportunity for us to ask questions rather than  
16 additional off-the-cuff testimony.

17 MR. CECIL: Absolutely.

18 JUDGE RENDAHL: I'm trying to think if there  
19 is anything else at this point. So if you will all get  
20 back to us about your options for hearing, then I will  
21 wait to schedule those. Back to Qwest, do you feel  
22 that we need four days for hearing after a technical  
23 conference?

24 MR. DETHLEFS: Your Honor, I don't think so.  
25 Normally, Qwest's cross-examination of Level 3's two

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1 witnesses -- they typically have two witnesses -- takes  
2 us about a day or typically less than a day, but that's  
3 how much time we need, so the rest of the time is how  
4 much time Level 3 anticipates they would need. We've  
5 got four witnesses, so they might need more time than  
6 we take, but if they spend the same amount of time per  
7 witness, I anticipate we would be able to finish in  
8 that time.

9 JUDGE RENDAHL: Understanding what Mr. Cecil  
10 had already said, if we have to have the technical  
11 conference on the 21st and took a break on the 22nd, it  
12 looks like we might be able to be done on the 24th  
13 anyway.

14 MR. DETHLEFS: I think that's very possible.

15 MR. CECIL: I believe that's possible as  
16 well, and I just went back and checked the Washington  
17 file. Actually, Ken Wilson is a witness in Washington,  
18 and he's filed testimony, so we would go ahead and  
19 bring him for the technical conference. That also  
20 affects a scheduling issue. It would be better, I  
21 know, for Ken Wilson to do the first day of hearing.  
22 He's going to be difficult to pin down the second week  
23 of August, but I will double check to make sure that's  
24 accurate.

25 JUDGE RENDAHL: How much time do you all need

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1 to get back to me?

2 MR. CECIL: For Level 3, we can get back to  
3 you the end of next week very easily, or Wednesday or  
4 Thursday of next week works.

5 MR. DETHLEFS: I would think that we could  
6 make it by then too. I've sent an e-mail out already  
7 asking our witnesses what their availability is. I  
8 would hope to have responses pretty soon, maybe even  
9 today.

10 JUDGE RENDAHL: Why don't we set a date for  
11 Thursday the 6th of July by noon letting me know your  
12 preferences for the technical conference, and in the  
13 prehearing conference order I set out today, I will  
14 just identify that there will be one scheduled and I'm  
15 waiting to hear from you all for dates.

16 So I think that we've got this pretty well  
17 nailed down, and then if the technical conference is  
18 going to be held on the 21st of August, it might be  
19 useful for you all to let me know definitively as well  
20 whether you want to take the break on the 22nd so we  
21 can let the court reporters know we don't need them  
22 that day, and then we can keep the remaining days of  
23 hearing just in case we do need Friday.

24 MR. CECIL: Okay. That works, and as an  
25 initial matter, Your Honor, because I've been sending

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1 out some e-mail as well, it appears that doing the  
2 technical conference on the first day of hearing and  
3 then taking the day off might work better, because for  
4 us, right now I'm unsure of Mr. Thayer's availability.  
5 It looks like he has one conflict on the week of the  
6 8th.

7 JUDGE RENDAHL: I will wait to hear from you  
8 all by Thursday at noon, and I will put that time in  
9 the order as well. Is there anything else we need to  
10 talk about this morning?

11 MR. CECIL: I don't have any other issues for  
12 Level 3.

13 MR. DETHLEFS: I don't have any other issues  
14 for Qwest either.

15 JUDGE RENDAHL: Before we recess, does either  
16 Qwest or Level 3 need a transcript of today's hearing?

17 MR. DETHLEFS: I don't believe so, Your  
18 Honor.

19 MR. CECIL: I don't believe we need it, Your  
20 Honor.

21 JUDGE RENDAHL: Just wanted to clarify. With  
22 that, this prehearing conference is finished. I thank  
23 you very much for calling in this morning or  
24 midmorning, whatever time it is your time, and I'll be  
25 sending out the prehearing conference order sometime

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1 today. Thank you very much.

2 (Prehearing conference adjourned at 10:15 a.m.)

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