

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

IN THE MATTER OF THE PETITION OF
LEVEL 3 COMMUNICATIONS, LLC FOR
ARBITRATION PURSUANT TO SECTION
252(B) OF THE TELECOMMUNICATIONS
ACT OF 1996, WITH QWEST
CORPORATION REGARDING RATES,
TERMS, AND CONDITIONS FOR
INTERCONNECTION

Docket No. UT-023042

**QWEST CORPORATION'S
RESPONSE TO LEVEL 3
COMMUNICATIONS, LLC'S
MOTION FOR LEAVE TO FILE
ADDITIONAL AUTHORITY**

Qwest Corporation ("Qwest") submits this response to Level 3 Communications, LLC's Motion for Leave to File Additional Authority. Level 3's motion seeks to provide the Commission with a recommended order recently issued by a hearing examiner in a Qwest/Level 3 interconnection arbitration in New Mexico. Qwest defers to the Commission concerning whether to grant Level 3's motion. However, should the Commission grant Level 3's motion, Qwest respectfully suggests that the Commission consider the following factors as well.

First, the decision is not a final order but, instead, is a recommendation to the New Mexico Commission. Qwest has filed exceptions to the recommended decision, and, thus, the final position of the New Mexico Commission on this issue is at present unknown.

Second, the decision is based on substantially the same reasoning followed by a Minnesota administrative law judge in another arbitration between Qwest and Level 3. The Minnesota decision was presented to the administrative law judge in this case, and she found that it did not provide a basis for reversing this Commission's previous rulings that Internet traffic should be excluded from relative use.¹

¹ See Third Supplemental Order, Arbitrator's Report and Decision at ¶ 29.

In sum, Qwest defers to the Commission concerning whether to grant Level 3's motion but respectfully requests that in evaluating the motion, the Commission consider the points set forth herein.

DATED: February 4, 2003

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that true and complete copies of the attached **Qwest Corporation's Answer to Level 3 Communications, LLC's Petition for Administrative Review** were served on the following:

By hand delivery and electronic mail:

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By _____

