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1 BEFORE THE WASHINGTON UTILITIES AND
2 TRANSPORTATION COMMISSION

3 In the Matter of the Petition)
4 for Arbitration of an)
5 Interconnection Agreement)
6 Between:)
7 LEVEL 3 COMMUNICATIONS, LLC,)
 and)Docket No. UT 023042
8 QWEST CORPORATION)Volume I
9 Pursuant to 47 USC, Section 252)Pages 1-26

8 A prehearing conference in the above matter was
9 held on September 24, 2002, at 8:30 a.m., at 1300 South
10 Evergreen Park Drive Southwest, Room 206, Olympia,
11 Washington, before Administrative Law Judge MARJORIE
12 SCHAER.

13 The parties were present as follows:

14 QWEST CORPORATION, by ADAM SHERR, Attorney
15 at Law, 1600 Seventh Avenue, Suite 3206, Seattle,
16 Washington 98191, Telephone (206) 398-2507, Fax
17 (206) 343-4040, E-mail, asherr@qwest.com; and by
18 LISA ANDERL, Attorney at Law, via Bridge Line,
19 Telephone (206) 345-1574, E-mail, landerl@qwest.com;
20 and by JOHN DEVANEY, Attorney at Law, Perkins Coie,
21 607 14th Street, Northwest, Washington, D.C.
22 2000-2011; Telephone, (202) 434-1624; Fax,
23 (202) 434-1690; E-mail, devaj@perkinscoie.com.
24 Deborah L. Cook
25 Court Reporter

0002

1 LEVEL 3 COMMUNICATIONS, LLC, by ROGELIO E.
2 PENA, Attorney at Law, Pena & Associates, 1919 14th
3 Street, Suite 330, Boulder, Colorado 80302,
4 Telephone, (303) 415-0409, Fax, (303) 415-0433,
5 E-mail, repena@boulderattys.com; and by GREG ROGERS,
6 Attorney at law, via Bridge Line, 1025 Eldorado
7 Boulevard, Broomfield, Colorado 80021; Telephone,
8 (720) 888-2512; Fax, (720) 888-5134; E-mail,
9 greg.rogers@level3.com.

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PROCEEDINGS

JUDGE SCHAER: Let's be on the record.

We're here this morning for a pre-arbitration conference in docket UT -- excuse me, I am looking at a different docket -- UT-023042, and this is a proceeding wherein Level 3 Communications, LLC, has filed a petition in arbitration under the Telecom Act of 1996, and would like to arbitrate that issue with Qwest Corporation.

We're here today on September 24th in the Commission's hearing room in Olympia, Washington. It's 8:40 in the morning, and appearing in the hearing room are Mr. Pena for Level 3, and Mr. Sherr for Qwest.

We also have joining us on the bridge line at this time Mr. Devaney with the Perkins Coie firm in Washington, D.C.

Also representing Qwest, Lisa Anderl who is in-house counsel for Qwest. And Greg Rogers who is with Level 3.

Is there anyone else who has joined us on the bridge line?

(No response.)

JUDGE SCHAER: I would like to start this

0004

1 morning by taking appearances, starting with
2 petitioner.

3 MR. PENA: Good morning. This is Rogelio
4 Pena, Pena & Associates, for Level 3 Communications.

5 MR. ROGERS: Greg Rogers, entering an
6 appearance as well, with Level 3.

7 JUDGE SCHAER: Are you employed by Level 3,
8 or outside counsel?

9 MR. ROGERS: I am in-house counsel. I am
10 an attorney at Level 3.

11 JUDGE SCHAER: Usually at a first
12 conference like this one we have you put in a big
13 appearance in the sense that you give me your
14 address, you provide me and other parties with your
15 fax number, and with your e-mail address so if we
16 need to correspond quickly, we have those tools
17 available.

18 So would you, Mr. Pena, give us the rest of
19 that information.

20 MR. PENA: Yes, Your Honor. I am with
21 Pena & Associates, LLC. My address is 1919 14th
22 Street, Suite 330, Boulder, Colorado 80302. My
23 telephone number is (303) 415-0409. My fax number
24 is (303) 415-0433, and my e-mail address is
25 r-e-p-e-n-a, at boulder attorneys -- that's

0005

1 b-o-u-l-d-e-r-a-t-t-y-s -- dot com.

2 JUDGE SCHAER: Thank you. And Mr. Rogers,
3 would you like to give us the rest of your contact
4 information, please.

5 MR. ROGERS: I am Level 3 Communications.
6 Our address is 1025 Eldorado, E-l-d-o-r-a-d-o,
7 Boulevard in Broomfield, B-r-o-o-m-f-i-e-l-d,
8 Colorado, Zip code, 80021. My phone number,
9 (720) 888-2512. My fax number is (720) 888-5134.
10 And my e-mail address is Greg, G-r-e-g, dot, Rogers,
11 R-o-g-e-r-s, at Level 3, the number 3, dot com.

12 JUDGE SCHAER: Thank you. Then we will
13 take appearances from the respondent starting with
14 you, Mr. Sherr.

15 MR. SHERR: Adam Sherr, S-h-e-r-r, in-house
16 attorney at Qwest. Address is 1600 7th Avenue, Room
17 3206, Seattle, Washington 98191. Telephone number
18 (206) 398-2507. Fax number, (206) 343-4040, and
19 e-mail is a-s-h-e-r-r, at Qwest dot com.

20 JUDGE SCHAER: Thank you. And then
21 Mr. Devaney.

22 MR. DEVANEY: Yes, Your Honor. It's John
23 Devaney, D-e-v-a-n-e-y. I am with the law firm of
24 Perkins Coie, and second name C-o-i-e. And the
25 address is 607 14th Street, Northwest, Washington

0006

1 D.C., Zip code, 20005-2011; Telephone,
2 (202) 434-1624; Fax, (202) 434-1690; and the e-mail
3 address is d-e-v-a-j, at Perkins Coie, dot com.

4 JUDGE SCHAER: Thank you. And you,
5 Ms. Anderl?

6 MS. ANDERL: Lisa Anderl, in-house attorney
7 representing Qwest. My address information is the
8 same as Mr. Sherr's. My telephone number is
9 (206) 345-1574. And my e-mail is L-a-n-d-e-r-l, at
10 Qwest dot com.

11 JUDGE SCHAER: Thank you. Has anyone else
12 joined us on the bridge line?

13 (No response.)

14 JUDGE SCHAER: Thank you. Then
15 at this point what I had talked with the parties
16 about before we went on the record was -- the agenda
17 I had in mind was to talk about, first, whether
18 there are factual issues that need to be resolved in
19 this matter. And then with knowledge of what we did
20 or did not need to do at that point, discussion on
21 the schedule for the remainder of the proceeding,
22 which schedule would include at some point answers
23 to Qwest's motion to dismiss.

24 And we will need to talk about whether
25 there's going to be reply to those. It's my

0007

1 understanding that the statutory time line for me to
2 have a report issued is December 28 -- not December,
3 November 28. And I am thinking that's fairly close.
4 Actually, I need to look at this again, because you
5 are showing 11/27. So we need to make certain we
6 all agree on what that date is.

7 So I would like you, Mr. Pena, to first
8 address what factual issues you see that need to be
9 determined as part of the Commission's determination
10 in this matter, and I will note you have filed your
11 petition and supporting information.

12 And it appears to me, Mr. Sherr, that in
13 response Qwest has not filed any affidavits or other
14 statements of fact. Am I correct in that
15 understanding?

16 MR. SHERR: That was John Devaney on the
17 line, Your Honor. John Devaney is lead counsel.

18 JUDGE SCHAER: So Mr. Devaney, are you
19 speaking for Qwest today?

20 MR. DEVANEY: Yes, primarily I am, Your
21 Honor.

22 JUDGE SCHAER: So I guess what I want to
23 know is apparently you have made the factual
24 statements in your materials. Qwest has not sought
25 to file any factual information to contest those.

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1 So what facts remain that need to be discovered in
2 this proceeding?

3 MR. PENA: May I proceed?

4 JUDGE SCHAER: Yes, sir.

5 MR. PENA: Your Honor, as I had begun
6 before we got on the record, Level 3 would like to
7 explore factual issues in this proceeding.

8 Level 3 has, in fact, filed discovery in a
9 similar proceeding that's ongoing right now in the
10 state of Minnesota before that Public Utility
11 Commission. And I think the type of issues Level 3
12 is seeking to explore in that proceeding are
13 precisely the type of issues that Level 3 would like
14 to explore in this proceeding.

15 Just to give you a for example, some of the
16 information and factual information that Level 3 has
17 solicited -- and, again, I believe the request for
18 information that I am referring to have, in fact,
19 been sent out by Level 3. Mr. Rogers can correct me
20 if I am wrong.

21 But Level 3 would like to explore the
22 markets in which Qwest provides service to ISPs.
23 Level 3 would like to propound discovery regarding
24 whether -- or regarding this service that Level 3
25 provides its ISP customers. Level 3 would like to

0009

1 explore the methodology that Qwest proposes to use
2 to measure actual minutes of use at an entrance
3 facility.

4 And I could go on, if you like. I have a
5 list of at least 10 items that Level 3 would like to
6 explore, or we can -- I mean, this is just to give
7 you an idea of the information, the type of
8 information that Level 3 would like to explore in
9 this proceeding. And obviously do it through
10 discovery, and then filing testimony.

11 MR. ROGERS: If I might, this is Greg
12 Rogers. I think it's also important to note that I
13 think it will be tremendously helpful to have a
14 factual basis in which to consider the legal
15 questions before the Commission in that this is a
16 fairly technical interconnection type argument, and
17 it requires factual understanding of how the
18 interconnection is set up, and how the traffic flows
19 would occur.

20 That's how we essentially would explore
21 that type of factual issue, just to provide that
22 type of background at a hearing as well.

23 JUDGE SCHAER: Mr. Rogers, I am somewhat
24 confused, because your client has filed with the
25 Commission a motion to dismiss, or in the

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1 alternative, to receive summary determination.

2 MR. ROGERS: I am with Level 3.

3 JUDGE SCHAER: I am sorry. I do apologize.

4 So those things have, however, been filed by Qwest.

5 I guess I am still a little bit uncertain of why

6 your facts wouldn't be in your petition that

7 supports your case in chief.

8 MR. ROGERS: I think the question may be in

9 our petition in some form or another. Just for

10 example, a fundamental question is that Qwest seeks

11 to parse out internet traffic and treat it

12 differently than mobile traffic in issue that is

13 before the Commission.

14 And we have fundamental questions about how

15 they could possibly identify that type of traffic.

16 If they are going to be parsing it out, how do they

17 propose to identify it? We don't have an

18 understanding of that so that's one fundamental

19 factual issue that I can point to off the top.

20 JUDGE SCHAER: Now, are you appearing today

21 as the primary counsel for Level 3?

22 MR. ROGERS: It's either of us. I don't

23 know that I am putting myself forth as a primary

24 counsel, but I am involved in all of our

25 arbitrations. So I am familiar with all of the

0011

1 various state proceedings. So it may make sense, I
2 guess, to say that I would be the primary counsel.

3 JUDGE SCHAER: I am just trying to
4 understand, because we usually let one counsel speak
5 for one party, and don't take arguments for both.

6 If you would like to change that, we could
7 talk about it briefly, but I need a clear
8 understanding of what we're doing.

9 MR. ROGERS: I apologize. I just assumed I
10 would have an opportunity to add to what Mr. Pena
11 had said.

12 JUDGE SCHAER: Is that how you would like
13 to proceed, that both of you can speak on behalf of
14 Level 3?

15 MR. ROGERS: If that's acceptable, I would
16 like to be able to have that opportunity.

17 JUDGE SCHAER: Mr. Sherr, is Mr.
18 Devaney the only speaker for Qwest today, or are
19 there points where you might be addressing items
20 as well, or Ms. Anderl?

21 MR. SHERR: Mr. Devaney would be primarily
22 speaking for Qwest, but I would like the opportunity
23 for myself or Ms. Anderl to chime in, if you don't
24 mind. But my anticipation is Mr. Devaney.

25 JUDGE SCHAER: Do you have any objection to

0012

1 two representatives of Level 3 addressing these
2 issues?

3 MR. SHERR: I don't.

4 JUDGE SCHAER: Then for purposes of this
5 hearing, we will allow multiple counsel to address
6 the same issues, as you have been doing at this
7 point. And I will try very hard to keep track of
8 the names of the parties.

9 So we've heard that Level 3 needs some
10 factual information to develop its case. What kind
11 of discovery have you already delivered in
12 Washington?

13 MR. PENA: We have not ordered any
14 discovery in Washington, Your Honor.

15 JUDGE SCHAER: What are the reasons for
16 that?

17 MR. PENA: Greg, I will defer to you.

18 MR. ROGERS: We've been simply looking to
19 see what the procedural schedule would be before we
20 issued information requests. But we are, as Mr.
21 Pena has said, prepared to do that. We have done
22 that already in Minnesota, and anticipate doing it
23 in the other states where we have arbitration
24 proceedings under way.

25 JUDGE SCHAER: Did you receive the

0013

1 Commission's order on arbitration procedure that was
2 served on August 16 of this year?

3 MR. ROGERS: Yes, I believe I did.

4 JUDGE SCHAER: I believe that lays out, in
5 paragraph 4, the information that the nine-month
6 time line for resolution is November 27, 2002. Is
7 it your understanding that under the law that's the
8 correct date?

9 MR. ROGERS: This is Greg Rogers. I
10 believe that is correct. We would say Level 3 would
11 be willing to work with the Commission to extend
12 that date. We are not necessarily of the mindset
13 that we would require the Commission to reach a
14 decision by that day, even though that is the
15 statutory deadline.

16 JUDGE SCHAER: Is there any part to that
17 statute that gives the Commission authority to waive
18 those dates, to your knowledge?

19 MR. ROGERS: I can't point you to a
20 specific clause to that effect, except to say it is
21 something that we have done elsewhere in the past,
22 the stipulation between the parties. And being a
23 petitioner, we have had the practice of having the
24 prerogative, I guess, of either holding to that
25 date, or agreeing to an extension of that date.

0014

1 JUDGE SCHAER: Has that happened in the
2 state of Washington?

3 MR. ROGERS: Not to my knowledge.

4 JUDGE SCHAER: Well, I have heard from
5 Level 3 about the reasons they think they would need
6 to have discovery, and explore factual issues in
7 this proceeding. And I would like to hear a
8 response now from Qwest.

9 MR. DEVANEY: Thank you, Your Honor. This
10 is John Devaney speaking for Qwest.

11 What I would like to do is begin by
12 defining the issue that is raised in this
13 arbitration, because I think once we define the
14 issue, it becomes apparent that there really aren't
15 material facts that bear on the issue.

16 And the issue is this, essentially: The
17 FCC has a rule that is called the Relative Use Rule
18 relating to who pays for the interconnection trunks
19 that connect carriers together. And that rule is
20 something that Level 3 and Qwest agree applies in
21 this circumstance.

22 And the only disagreement between the
23 parties is whether internet traffic should be
24 included in determining each party's relative use of
25 the interconnection trunks. That is the issue

0015

1 presented in the arbitration.

2 And the Commission has addressed this issue
3 in its 32nd Supplemental Order of the Cost Docket,
4 and ruled that internet traffic should not be
5 included in relative use calculations, because the
6 FCC has found that traffic to be interstate in
7 nature. And I understand that just yesterday the
8 Commission affirmed that ruling in the 38th
9 Supplemental Order.

10 The factual issues that Mr. Pena and
11 Mr. Rogers suggested were at issue earlier, and that
12 would be the subject of discovery requests really
13 don't bear on this issue at all. The issue is very
14 straightforward, should internet traffic be included
15 in relative use, or should it not? And that's a
16 matter of looking, number one, at the Washington
17 Commission's ruling, specific ruling on this issue,
18 and number two, the FCC rules. They are binding on
19 this issue.

20 And questions about what type of ISP
21 service Qwest provides, what markets Qwest is in,
22 they have nothing to do with the fundamental issue
23 that is presented here. And not surprisingly, the
24 facts that Level 3 says it will explore in
25 discovery, to my knowledge, aren't raised in their

0016

1 petition anywhere, which, in my mind, anyway,
2 affirms that they are not relevant to the issue.

3 So this is one of those classic legal
4 issues that is keyed up to be decided based on
5 application of clearly established law in
6 Washington, and by the law established by the FCC.

7 So, yeah, I haven't heard anything or seen
8 anything that suggests there are any material issues
9 that bear on this issue, that is, issues of fact.

10 So we feel strongly that this is a case
11 that is ripe for decision based on a dispositive
12 motion, such as the one we filed. And we would urge
13 the Court to establish a procedural schedule that
14 requires full briefing of the dispositive motion,
15 and a ruling on dispositive motion relatively
16 quickly, obviously at the Court's convenience.

17 With respect to whether Qwest would be
18 willing to waive the statutory deadline, I think any
19 waiver, to the extent a waiver would be permissible,
20 would have to be by mutual consent of the parties.
21 And Qwest, in this case, is not willing to waive the
22 statutory deadline.

23 And one of the reasons why is we think the
24 law is so fundamentally clear on this, particularly
25 in Washington, there's nothing to be served by

0017

1 waiving the statutory deadline.

2 I think that addresses all the issues that
3 Level 3 raised. If Your Honor would like me to
4 respond to anything else, I would obviously be happy
5 to.

6 JUDGE SCHAER: Thank you. I think what I
7 would suggest we do is that we go off the record for
8 a bit to discuss schedules. And I would like us to
9 try to find a schedule that meets the statutory time
10 lines at this point.

11 And if that means that we are not arguing
12 this -- arguing dispositive motions until a later
13 time, and perhaps having to do some duplicate work,
14 I think with the compressed time frame we have that
15 may be our only option.

16 So it's 9:00, and we're going off the
17 record to discuss scheduling.

18 (Discussion off the record.)

19 JUDGE SCHAER: Let's be back on the record
20 after our morning recess.

21 During the time we were off the record
22 there were extended discussions about scheduling the
23 remainder of the proceeding, and discussions have
24 continued between the parties. And it's my
25 understanding that they have reached some agreement

0018

1 that they can now share with the Commission.

2 And I understand you, Mr. Pena, are going
3 to be the spokesman; is that correct?

4 MR. PENA: Yes, Your Honor.

5 JUDGE SCHAER: Go ahead, please.

6 MR. PENA: Thank you. While we were off
7 the record, the parties did discuss a possible
8 procedural schedule that accommodates everybody's
9 calendar. And for the remainder of this proceeding,
10 the parties would like to follow the following
11 schedule:

12 Parties would like to have Level 3's
13 response to Qwest's motion to dismiss and/or summary
14 determination to be filed no later than October 9.
15 On that same day, the parties would file
16 simultaneous direct testimony. Simultaneous
17 rebuttal testimony would be due October 16. And
18 Qwest's reply to Level 3's response to its motion
19 would also be filed on October 16.

20 A prehearing conference, a telephonic
21 conference, just to discuss logistics of the actual
22 hearing, could be held on October 28th. And the
23 hearing, should the Court decide to have one, would
24 be on October 29th. And simultaneous post-hearing
25 briefs would be filed November 8th. And, of course,

0019

1 the ALJ's decision would be issued -- what is it --
2 I believe November 27th.

3 JUDGE SCHAER: On or before November 27
4 would be my deadline for writing the report about
5 this proceeding.

6 Do all parties agree to this schedule as
7 being workable?

8 MR. SHERR: Your Honor, this is Adam Sherr.
9 Qwest does, subject to Your Honor believing there
10 would be enough time between the end of the briefing
11 schedule, October 16, with regard to Qwest's motion,
12 and the hearing date for you to render a decision on
13 that.

14 JUDGE SCHAER: I think there would be. I
15 am going to let you know that it may not be decided
16 before the hearing. I may let the petitioner
17 present their case, and then let you also revive the
18 motion at that point if you don't believe there have
19 been any facts put on the record we need to concern
20 ourselves with.

21 I am not deciding either way right now. I
22 am just letting you know that with all of the flux
23 that is involved in this, that I want to reserve my
24 options as well to get this done as well as I can by
25 the deadline of the 27th.

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1 MR. PENA: Your Honor, the parties also
2 discussed the need of a protective order, and the
3 parties do believe that a protective order should be
4 issued.

5 JUDGE SCHAER: That will be done. And I
6 have heard you discussing records into data, and I
7 am wondering if you need the discovery rule and our
8 procedural rules to be triggered to allow to you
9 have those tools, or if you are going to be able to,
10 on an informal basis, to trade information?

11 MR. PENA: Unfortunately, we did not
12 discuss that off the record as to how to deal with
13 that.

14 JUDGE SCHAER: If you would like to go off
15 the record again so you can discuss that with
16 co-counsel, go ahead, please.

17 MR. PENA: Okay. Thank you.

18 JUDGE SCHAER: The rule is WAC 480.09.480,
19 and the time lines for returning information may be
20 longer than you can afford in the schedule.

21 So sometimes people look at the rule, and
22 want the tools there, but they want to have shorter
23 times. So I will let the parties discuss that for
24 about five minutes, I think should be enough. So
25 let's be off the record, and we will begin again at

0021

1 10 minutes to 10:00.

2 (Discussion off the record.)

3 JUDGE SCHAER: We will be back on the
4 record after a short recess to discuss discovery
5 matters.

6 And I am not sure who my reporting attorney
7 is this time. Are you reporting, again, Mr. Pena?

8 MR. PENA: I am more than happy to, Your
9 Honor.

10 The parties discussed discovery while we
11 were off the record. And while the rules provide
12 for a 10-calendar-day response time, the parties
13 have agreed to a 7-calendar-day response time on any
14 discovery propounded in the proceeding.

15 One of the things that the parties would
16 like to discuss with Your Honor is discovery
17 disputes. Should there be objection to discovery,
18 given the time line in the proceeding, Level 3 was
19 wondering if those disputes couldn't be brought to
20 the Bench's attention via conference call so we can
21 expedite resolution, either the objections are
22 sustained, or the party is ordered to provide
23 responses.

24 JUDGE SCHAER: The Commission will make
25 someone available to hear discovery disputes on a

0022

1 very accelerated basis, if that is needed. So that
2 once I am contacted, or if the Commission is
3 contacted, we will look to set up some kind of
4 telephone hearing that is addressed to that issue,
5 and deal with it as smoothly and quickly as
6 possible.

7 MR. DEVANEY: Qwest -- Your Honor, Qwest,
8 of course, has no objection to that, and supports
9 it.

10 MR. PENA: Level 3 is fine with that, also.

11 JUDGE SCHAER: And I am saying not just me,
12 but the Commission, because if I'm not available,
13 you need to contact Mr. Wallis or Mr. Moss in my
14 section, and they will be able to line up somebody
15 in a quick time line, because we recognize the
16 importance of keeping these matters moving.

17 MR. SHERR: Judge, this is Adam Sherr for
18 Qwest. Just to clarify, the Commission expects the
19 party propounding discovery to -- that the party
20 propounding discovery not satisfied with the
21 response to be seeking intervention by the
22 Commission?

23 JUDGE SCHAER: That's who I would expect to
24 hear from is the party who has not received what
25 they asked for. And if there are any materials -- I

0023

1 won't see most or all discovery materials. So if
2 there are some materials I need to see in order to
3 understand the issue presented, then you will need
4 to fax those to me. And if you need -- if the other
5 party wants to fax responses, or you know, what they
6 said when they said no, a copy of that, I am not
7 asking for a lot of new writing, but copies of what
8 exists that can be sent in so that we are all on the
9 same page when we hold our discussion.

10 MR. SHERR: Thank you, Your Honor. I just
11 wanted to make sure we were on the same page.

12 MR. PENA: That's fine, Your Honor.

13 JUDGE SCHAER: So I will trigger the
14 discovery rule in WAC 480.09.480, and make those
15 means of discovery available to the parties. And we
16 will note that the parties have agreed to shorten
17 the time for responses to 7 calendar days.

18 I want to encourage the parties to the
19 extent possible, to deal with each other informally,
20 to deal with each other quickly. If there's part of
21 a response you can pull off a shelf and send, and
22 something else you need to find, give as quickly as
23 possible the part you can prepare immediately, and
24 talk to each other about why something else might
25 take longer.

0024

1 I have high respect for the counsel whom
2 I've worked with, and look forward to having high
3 respect for the others when I meet you. But I think
4 that a lot of this is not going to require my
5 intervention, because I think you can figure it out
6 between you in a way that a request that seems too
7 broad maybe after conversation can be understood or
8 narrowed. Things that don't exist in a certain
9 form, you can have a conversation about what might
10 be available that meets the same need.

11 I would really like you to be able to run
12 this process yourself, but I am available if needed.
13 And with discovery, as well as with the protective
14 order, it's going to take a little bit of processing
15 time to get orders out of the Commission. I would
16 like you to begin to operate as if those were in
17 existence.

18 If that means that you at this point only
19 share confidential information with attorneys who
20 keep it in a privileged situation, I understand that
21 you might have a need to do that. But to the extent
22 possible, I would, again, like you to act as if
23 these two things were written down in an order right
24 now, and they will be written down quickly.

25 So we have discussed the schedule. We have

0025

1 discussed the protective order. We have discussed
2 discovery. We have a schedule.

3 Are there any other items that any party
4 would like to bring up before we conclude this
5 morning?

6 MR. PENA: Level 3 doesn't have anything,
7 Your Honor.

8 MR. SHERR: John, does Qwest have anymore?
9 I will take that as a "no."

10 JUDGE SCHAER: All right. Thank you all
11 then for your conduct this morning, and for working
12 out a schedule that I think will be tight for
13 everyone, but should be able to work if we all push
14 on together.

15 MR. DEVANEY: Your Honor, this is John
16 Devaney. I had the mute button on, because there
17 was a fire engine going on outside.

18 JUDGE SCHAER: That's fine. I will ask
19 again, is there anything further you think we need
20 to discuss this morning?

21 MR. DEVANEY: There is not. And I want to
22 thank you for allowing us to participate by phone.

23 JUDGE SCHAER: You are welcome. And that
24 is something the Commission does make available as
25 much as it can to help people who are at a distance.

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1 So without anything further, I will declare
2 us adjourned. Off the record.

3 ENDING TIME: 10:00 A.M.

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