

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 05B-210T

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.

**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**

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.¹ 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

¹ 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.² 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

² 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.³

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

³ 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 57⁴

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.

⁴ 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.

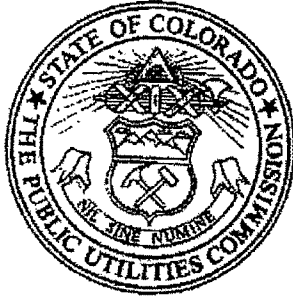
76. RA 42 requests that Qwest admit that its billing systems never sample any data regarding the address or location of any end user's premises for purposes of billing. Qwest's supplemental responses clearly indicate that it has denied RA 42. Therefore, Qwest has provided an adequate response to RA 42 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

Doug Dean

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

DALE E. ISLEY

Administrative Law Judge