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BEFORE THE WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Level 3)
Communications, LLC's Petition for)Docket UT-063006
Arbitration Pursuant to Section)Volume II
252(b) of the Communications Act of)Pages 23-48
1934 as Amended by the)
Telecommunications Act of 1996, and)
the Applicable State Laws for Rates,)
Terms, and Conditions of)
Interconnection with Qwest)
Corporation.)

Oral argument in the above-entitled
matter was held at 1:31 p.m. on Tuesday, April 18,
2006, at 1300 South Evergreen Park Drive, S.W.,
Olympia, Washington, before Administrative Law Judge
ANN RENDAHL.

The parties present were as follows:

QWEST CORPORATION, by Lisa Anderl,
In-House Attorney, 1600 Seventh Avenue, Room 3206,
Seattle, Washington 98191 and Thomas Dethlefs, Senior
Attorney, Law Department, 1801 California Street,
Tenth Floor, Denver, Colorado 80202.

LEVEL 3 COMMUNICATIONS, LLC, by Erik
Cecil, Regulatory Counsel, and Richard E. Thayer,
Director of Interconnection, 1025 Eldorado Boulevard,
Broomfield, Colorado 80021.

Barbara L. Nelson, CCR

Court Reporter

0024

1 JUDGE RENDAHL: We are here before the
2 Washington Utilities and Transportation Commission on
3 April the 18th, 2006, in the matter of a petition for
4 arbitration by Level 3 Communications, L.L.C., for an
5 interconnection agreement with Qwest Corporation in
6 Docket Number UT-063006.

7 Under the procedural schedule established
8 very early in this case, the parties agreed to
9 identify data requests that Qwest objected to and
10 which were subject to dispute.

11 Level 3 filed a motion to compel addressing
12 those objections, they filed that with the Commission
13 on April 11th, and Qwest responded -- I'm sorry,
14 Level 3 filed its motion to compel on April 3rd, and
15 Qwest responded on April 11th, and we're here today
16 for oral argument on Level 3's motion to compel.

17 So we'll begin with counsel for Level 3.
18 Before we do that, we'll take appearances on the
19 record. We will have 20 minutes of argument for
20 Level 3. If they choose to split that time into
21 initial argument and rebuttal, that's acceptable, and
22 then argument from Qwest. So let's begin with
23 appearances from Level 3.

24 MR. CECIL: Erik Cecil, Regulatory Counsel.

25 MR. THAYER: Richard Thayer, Director of

0025

1 Interconnection.

2 MS. ANDERL: Lisa Anderl, for Qwest,
3 In-house Attorney, and with me is Tom Dethlefs, who
4 has not previously appeared before the Commission in
5 this matter, so Your Honor, would you like the
6 complete appearance, with the name, address, phone
7 and fax?

8 JUDGE RENDAHL: No, because I think at the
9 pre-hearing conference, actually, Mr. Dethlefs, you
10 were on the line.

11 MS. ANDERL: Oh, that's right.

12 JUDGE RENDAHL: I think we did take a
13 complete appearance from you, and I believe Mr. Cecil
14 provided a complete appearance for you, as well, Mr.
15 Thayer, so I think we're covered with those details.
16 I think I have that information in the record. If I
17 find I don't, I know where to find you all so we can
18 get that information.

19 Is there anything we need to discuss on the
20 record before we begin argument? Hearing nothing,
21 Mr. Cecil? Or Mr. Thayer, are you taking the --

22 MR. CECIL: I'll take it. We'll take five
23 minutes just to address the issues and reserve the
24 rest.

25 JUDGE RENDAHL: Okay.

1 MR. CECIL: I believe that we've laid out
2 our issues and where we see why this is important to
3 the case before this Commission. We believe the law
4 is clear, the scope of the act is clear in terms of
5 both the relevance of this information, as well as
6 scope of discovery, both under the act in terms of
7 relevance to the case and under the rules, and I
8 think that's covered in detail.

9 I think at a broader level, it's important
10 because Level 3 believes that these requirements that
11 Qwest would have the Commission impose upon Level 3
12 are highly discriminatory.

13 Qwest, in its response to our motion, cites
14 a number of state decisions, which is actually
15 fascinating, because what we did as a result of
16 having litigated this case for quite a while now and
17 having had two technical conferences, both with the
18 Oregon Commission and the New Mexico Commission,
19 significantly reduced and refocused our discovery in
20 an effort to get as close as possible to what we saw
21 was directly relevant as to the technical facts.

22 So we see that all those cases are actually
23 highly distinguishable because they were at different
24 points in the litigation and different sets of
25 questions. We worked very hard with this set of

0027

1 questions actually to provide as much background and
2 context as we could to enable Qwest to answer the
3 questions, because we had so many objections in prior
4 rounds, that we thought there might be a better way
5 to get at it and focus it.

6 Nevertheless, the objections are
7 interesting. They all appear to be highly technical
8 and, to Level 3's mind, actually point out the
9 continuing need for a technical conference where
10 everybody sits down and really goes through the
11 issues in this, because all of a sudden we're getting
12 objections that things like physical presence aren't
13 relevant to this case, which, in Level 3's view, is
14 absolutely fascinating.

15 That would conclude my opening remarks.

16 JUDGE RENDAHL: Okay. Thank you, Mr. Cecil.
17 And who will take the laboring oar for Qwest? Mr.
18 Dethlefs.

19 MR. DETHLEFS: I will, Your Honor. Let me
20 start out with a couple observations, then I'd like
21 to get into some of the specific requests.

22 First is, for many of the requests, Level 3
23 bases their contention for relevance, for example,
24 this physical presence notion, based on what they
25 claim Qwest's position is. And so when I go through

0028

1 the individual requests, I'll try to explain why
2 they've either misstated our position or applied it
3 wrong.

4 And the second is, the reason that we
5 provided the decisions from the other state
6 commissions is there have been six other arbitrations
7 pending. And one of the things that Level 3 has
8 tried to do in each of those proceedings is conduct
9 discovery relating to operations that are outside the
10 state in question.

11 And in those decisions, the only state
12 commission that granted Level 3 discovery concerning
13 another state was the Idaho Commission, and we didn't
14 -- I didn't quite realize that until I went through
15 those orders again last night.

16 But the Idaho Commission, on the requests
17 that it was addressing where it allowed discovery
18 outside the state, it concerned interconnection and
19 it limited Level 3's request to instances in which
20 the interconnection trunks at issue were
21 interconnection trunks, not just trunks that carried
22 traffic within Qwest's network or a CLEC's network.

23 The third point I'd like to make is that,
24 in a sense, what Level 3 is trying to do in each
25 state is they just keep taking shots at it with the

0029

1 idea that one state will eventually give them the
2 discovery they want and, in our view, each state has
3 responsibility for interconnection and rules of the
4 game as far as the interconnection agreements go in
5 that state, and that's where the Commission should
6 direct its attention, not to operations in states --
7 for example, in California, where Qwest Corporation
8 isn't even an incumbent local exchange carrier, or
9 Florida or Illinois or any of those states.

10 The only difference between what Level 3 has
11 done in this particular set of discovery requests
12 that is different from what it did in the prior
13 requests in other states is it has asked a few
14 additional questions and it has listed specific
15 states outside our region and outside of the state of
16 Washington.

17 Now, let me start out with what Qwest's
18 position is on two particular issues. The first
19 issue is this whole issue about point of presence.
20 And Qwest's position on point of presence is this:
21 If the service in question is enhanced service being
22 offered by an enhanced service provider, under the
23 FCC's rules, an enhanced service provider gets
24 treated like an end user.

25 Now, we cited one of the original decisions

0030

1 in our response to Level 3's petition. I've got some
2 quotes from some of the other authorities that we
3 would rely upon, and I'll provide those. I'm not
4 providing these just so we'll agree with our position
5 on this; I'm providing these so that you have an idea
6 what exactly we're claiming.

7 JUDGE RENDAHL: If you are going to read
8 from them, I suggest you do it slowly so the court
9 reporter can track it.

10 MR. DETHLEFS: I will do that. Let me just
11 start out with the general rule. The general rule
12 is, in the handout, is stated in the very first
13 sentence. The FCC said in its In the Matter of Its
14 Amendments to Part 69 of the Commission Rules
15 Relating to Enhanced Service Providers, 3 FCC Rcd
16 2631 (1988), it said, under our present rules,
17 enhanced service providers are treated as end users
18 for purposes of applying access charges.

19 Let me read from another case applying those
20 -- what we call the ESP exemption. This is from ACS
21 of Anchorage v. FCC, this is the bottom case, 290 Fed
22 3d, 403, at page 409. That's a D.C. Circuit decision
23 in 2002. It says, The FCC's primary justification
24 for the intrastate classification of ISP traffic for
25 separations purposes matches the language it has used

0031

1 for the ESP exemption. Rather than directly
2 exempting ESPs from interstate access charges, the
3 Commission defined them as end users, no different
4 from a local pizzeria or barber shop.

5 Now, how does that fit with our case, or
6 this particular case? The point that Qwest is making
7 is that we were talking about, for example, VoIP
8 traffic. VoIP, it's Qwest's position, it's an
9 information service, a VoIP provider is an enhanced
10 service provider, and that means that a VoIP provider
11 can purchase out of Qwest's retail tariffs service to
12 deliver its traffic, even though that traffic would
13 otherwise have been subject to access charges.

14 In other words, the ESP is like an end user.
15 If the end user has to make a long distance call to
16 get their call from -- to another local calling area,
17 so does an ESP. And that -- so that's our position
18 on point of presence.

19 Now, one thing that's important to realize
20 about that is we are not claiming that the point of
21 presence of a telecommunications carrier, a carrier
22 that would have to pay access charges that's not
23 entitled to the ESP exemption, makes any difference
24 in this proceeding.

25 QC, Qwest Corporation, the incumbent LEC, is

0032

1 a telecommunications carrier. It does not offer
2 enhanced services. So all of Level 3's questions
3 about points of presence of Qwest -- and Qwest, in
4 their discovery request, is defined to be QC, or
5 Qwest Corporation, the incumbent LEC, are not
6 relevant, because no party in this proceeding is
7 claiming that the presence of a telecommunications
8 carrier makes any difference for purposes of the
9 proceeding. The only presence that makes any
10 difference is the presence of an enhanced service
11 provider.

12 Now, the difference between Qwest and Level
13 3 on this point is Qwest believes that treating the
14 ESP as an enhanced service -- as an end user is how
15 you determine whether the call is a local call or a
16 long distance call.

17 Level 3 takes the position in their petition
18 that access charges don't apply, period, to VoIP
19 traffic or to traffic that goes to an Internet
20 service provider, because they believe that the ESP
21 exemption -- and then they can correct me if I'm
22 misstating their position. I know I've got it
23 correct that they don't believe that access charges
24 should apply, period, but in their view, the
25 exemption is far broader than in Qwest's view.

0033

1 So whenever the question asks for the point
2 of presence of Qwest Corporation, it's our view that
3 that's not relevant or even reasonably calculated to
4 lead to relevant evidence because Qwest is not
5 claiming and Level 3 is not claiming that the point
6 of presence of a telecommunications carrier makes any
7 difference.

8 A good example, if you have a long distance
9 call carried by AT&T, acting as a long distance
10 carrier, that gets delivered to Qwest in one local
11 calling area and Qwest terminates in that local
12 calling area, it doesn't matter whether AT&T has a
13 presence in that local calling area or not. The
14 call's a long distance call by virtue of where the
15 end user is located.

16 The entire group of questions relating to
17 the voice termination product, that is a product
18 offered by QCC, not by Qwest Corporation, and it is a
19 long distance termination service in which QCC buys
20 switched access. It's not claiming to be an enhanced
21 service provider for that service and does not try to
22 claim the exemption, and so point of presence there
23 doesn't make any difference.

24 Now, in the groups of questions on this
25 particular issue that were -- they're basically

0034

1 trying to apply point of presence to a
2 telecommunications carrier, that's the whole series
3 of questions for 2; that's the essential issue in 4,
4 where the questions are about QC and where it has a
5 particular point of presence; it's true for the group
6 of questions in 5(a), (b), (c), and 13(c); and it's
7 true for the groups of questions on 14 and 15.

8 Now, my record reflects that we've answered
9 15 now. They may have filed the motion before we
10 did.

11 JUDGE RENDAHL: So 15(f) has been answered?

12 MR. DETHLEFS: I believe that --

13 JUDGE RENDAHL: Because I understand that
14 was the one that was in question. All the others
15 were -- 15(a) through (e) were pending, but (f) was
16 objected to, so --

17 MR. DETHLEFS: Well, in their motion, I
18 didn't see any discussion of 15(f); I just saw them
19 -- let me just make sure.

20 JUDGE RENDAHL: Let's go off the record for
21 a moment.

22 (Discussion off the record.)

23 JUDGE RENDAHL: So we clarified, I believe,
24 that 15(f), Qwest continues its objection, but (a)
25 through (e) have been responded to at this point.

0035

1 MR. DETHLEFS: I believe so, and Level 3 can
2 correct me if I'm wrong on that.

3 JUDGE RENDAHL: Okay. And you had stated
4 something while we were off the record about it being
5 -- I don't know if you wanted to repeat what you said
6 off the record.

7 MR. DETHLEFS: Oh, on 15(f), it's asking for
8 invoices, and invoices relate to what's happened in
9 the past. This proceeding is not an audit of
10 transactions between Qwest Corporation and QCC; it's
11 to determine what the appropriate terms are of an
12 interconnection agreement on a going forward basis.

13 Now, one other aspect of the enhanced
14 service provider exemption is pertinent here. For
15 the services that are the subject for the Qwest
16 wholesale dial product, that's a QCC product. QCC
17 buys service, retail service from QC, and then
18 provides an information service to Internet service
19 providers, okay. Now --

20 JUDGE RENDAHL: So QCC purchases the service
21 from QC to then provide to ISPs?

22 MR. DETHLEFS: Out of the retail tariffs.
23 Now, the important thing to note about that is that's
24 not an interconnection arrangement. Level 3's
25 enhanced service provider affiliate could do the same

0036

1 thing. Level 3, the CLEC, could buy those same
2 services at a retail discount and then sell them to
3 their customers.

4 So the idea that that somehow relates to
5 discrimination by QC in favor of QCC has no basis,
6 because it's not an interconnection arrangement; it's
7 QCC purchasing out of Qwest Corporation's retail
8 tariffs.

9 JUDGE RENDAHL: There was one question that
10 -- when I was reading Qwest's response. Isn't there
11 a interconnection agreement between QC and QCC?

12 MR. DETHLEFS: I believe that QCC has gone
13 to -- I can't speak for Washington, but I believe
14 that they have sought -- QCC has sought certification
15 as a CLEC, and that they may very well have an
16 interconnection agreement. The terms of that
17 interconnection agreement are available to Level 3,
18 the CLEC. Neither the wholesale dial service or
19 Qwest -- QCC's VoIP service are offered through that
20 arrangement. Both those services QCC is purchasing
21 out of retail tariffs.

22 JUDGE RENDAHL: So for purposes of the
23 wholesale dial and the VoIP service, even if QCC did
24 have an interconnection agreement with QC, those
25 services are not offered under the interconnection

0037

1 agreement?

2 MR. DETHLEFS: That's right.

3 JUDGE RENDAHL: Okay. And I don't know, Ms.
4 Anderl, maybe you can correct me, is the QC -- the
5 Qwest and QCC interconnection agreement, I believe
6 there is one in Washington, is that an SGAT, S-G-A-T,
7 agreement?

8 MS. ANDERL: It's my recollection and
9 understanding that it is an SGAT agreement, as
10 opposed to something negotiated particularly between
11 the parties. It's just an opt-in to the SGAT form.
12 But we can, of course, confirm that if need be or get
13 Your Honor the docket number to reference the record
14 here at the Commission.

15 JUDGE RENDAHL: I think that if there is an
16 SGAT entered into between QC and QCC, that's a matter
17 of public record and the Records Center can identify
18 that. I just wanted to clarify that for my
19 understanding today.

20 MR. DETHLEFS: Just a couple more points,
21 and my time will be up. On Number 14, the Qwest
22 wholesale voice termination product, all that product
23 is is QCC has an offering where they terminate long
24 distance traffic for other carriers who, for example,
25 may not have feature group D trunks set up to a

0038

1 particular exchange. It's a voice termination
2 product. QCC does not offer that as an enhanced
3 service provider.

4 So all the questions relating to point of
5 presence on that question we would view as
6 irrelevant, not likely to lead to discovery of
7 anything that's admissible, because there QCC is,
8 again, buying out of whatever ILEC's tariffs to whom
9 it's delivering the traffic for termination.

10 JUDGE RENDAHL: Okay. Let me just clarify,
11 so I understand the basis of this. It's a service
12 that QC offers generally and QCC purchases for
13 purposes of providing termination of long distance
14 services?

15 MR. DETHLEFS: Actually, what happens is QCC
16 purchases out of the switched access tariffs from
17 whatever RBOC or incumbent LEC company that it's
18 going to deliver the traffic to. The offering by QCC
19 is an offering to other carriers, maybe another long
20 distance carrier or -- I can't think of another
21 example other than another long distance carrier,
22 someone who wants to have QCC basically deliver the
23 traffic to whatever RBOC or incumbent LEC is going to
24 terminate it. QCC terminates it only in the sense
25 that they deliver it to whoever is actually going to

0039

1 terminate it and pays those charges.

2 But, once again, the termination goes
3 through the tariffed arrangements of whatever
4 incumbent LEC is going to terminate the traffic.

5 The final point I have has to do with
6 commingling of traffic. The dispute there really
7 isn't about whether traffic should be combined on one
8 interconnection trunk or on separate trunks. Under
9 Qwest's proposed language, we give Level 3 the
10 option. The only thing we're insisting on is if
11 they're going to deliver interexchange traffic to us,
12 and that's something they have not historically done,
13 they're going to do more of because of the WilTel
14 acquisition. WilTel is a major long distance
15 carrier.

16 The trunks that get sent over should have
17 the ability to record switched access traffic and
18 also handle other types of traffic. Qwest has made
19 its feature group D trunks capable of doing that, so
20 the dispute between us and Level 3 is Level 3 wants
21 to do it over LIS trunks, send all traffic over local
22 interconnection service trunks, and Qwest says if
23 you're going to commingle a type of traffic that's
24 not covered by Section 251(c), then you should send
25 it over feature group D trunks, which can sort out

0040

1 switched access traffic from the local traffic.

2 JUDGE RENDAHL: And that relates to the
3 request for admission or Number 19?

4 MR. DETHLEFS: And Number 19. Now, the
5 requests for admission, obviously, are for Iowa, so
6 we argued that that's not a fair scope of discovery.
7 Those requests, by the way, were not served in Iowa,
8 even though we've gone through the Iowa arbitration,
9 so --

10 JUDGE RENDAHL: Let me just look to see if I
11 have any particular questions of Qwest. No, I don't
12 think so at this point. Are you -- have you
13 concluded your argument?

14 MR. DETHLEFS: I have. We didn't go through
15 each of the individual requests, necessarily, but I
16 think the most important point had to do with what
17 Qwest's position is on the ESP exemption, when point
18 of presence matters and when point of presence
19 doesn't matter.

20 JUDGE RENDAHL: Okay. Thank you. Mr. Cecil
21 or Mr. Thayer.

22 MR. THAYER: In light of Qwest's statements,
23 can we have just five minutes to better focus our
24 rebuttal?

25 JUDGE RENDAHL: Sure. We'll be off the

0041

1 record for five minutes.

2 (Recess taken.)

3 JUDGE RENDAHL: Let's be back on the record.

4 And Mr. Cecil, are you continuing the argument or --

5 MR. CECIL: Yes.

6 JUDGE RENDAHL: Okay.

7 MR. CECIL: In response to the concerns
8 raised by Qwest, first I will note that determination
9 of discrimination is a fact-based determination. And
10 if you look at the statute, you'll see that this is
11 also true. In Section 251(c)(2), Congress imposes
12 upon ILECs an affirmative duty to provide service and
13 interconnection at just, reasonable and
14 nondiscriminatory rates, terms and conditions.

15 If you contrast this with Section 202(a) of
16 the act, as the FCC has, you'll see that under 202,
17 in the retail world, it has prohibited unreasonable
18 discrimination. In other words, Congress intended a
19 stricter standard to apply in interconnection
20 situations. This is also inherently obvious because
21 of the market power and control over facilities that
22 an incumbent has vis-a-vis a new entrant.

23 This case is all about an incumbent
24 leveraging control and definitions -- traditional
25 definitions to the disadvantage of a competitor,

0042

1 Level 3, moreover, and therefore amplified across the
2 market in many ways.

3 All of these services are offered on a
4 nationwide basis. If Qwest is allowed to play this
5 subsidiary shell game with what it's doing, it can
6 then leverage control of its network in 14 states to
7 the benefit of the entire nation, because at the end
8 of the day, there are three major competitors in this
9 space, Level 3, Qwest and Verizon. Level 3 and
10 Verizon have an interconnection agreement. We do all
11 this stuff fine.

12 In other words, this stuff is relevant also
13 because of the way these networks are deployed and
14 operated, and I think that has become very clear from
15 our technical sessions.

16 I think the FCC's rules provide further
17 amplification on this. I'll just direct you to 51
18 305, it's to this particular point, which makes
19 relevant in terms of technical feasibility what is
20 done on any similar network anywhere. There's no
21 geographic limitation to that.

22 Lastly, if you turn to the Washington rules,
23 they fairly well track the federal intent, and look
24 to Section 252, which is -- specifically in 252(b),
25 directs commissions -- gives state commissions the

0043

1 authority to find any information that the commission
2 may believe is relevant to a determination in the
3 case. And in a case where services are offered on a
4 wholesale basis on a nationwide basis, to nationwide
5 players in rapidly converging markets, the fact of
6 how these services are provided comes at issue.

7 As a matter of fact, in other states, Qwest
8 is actually asking Level 3 what it does with its
9 network in states outside of the states in which it
10 is actually asking those questions.

11 And again, the Washington rules are -- more
12 than accommodate the broad discovery at this stage in
13 the proceedings, so that we can get to the facts and
14 really make a determination as to what is relevant
15 and what is not relevant, and then later determine --
16 at least allow Staff and the Commission the factual
17 basis upon which it's going to make their judgements
18 as to the validity of the legal arguments.

19 JUDGE RENDAHL: Okay.

20 MR. CECIL: That's all I have.

21 JUDGE RENDAHL: Okay. I think I had a few
22 questions for Level 3, technical and otherwise.

23 If you look at page nine of your motion,
24 paragraph 21, you refer to PRI circuits. And I
25 notice that they were identified in the actual

0044

1 requests, at least I believe they were identified as
2 a primary rate service. Can you explain what these
3 are in more layman terms, if you can?

4 MR. CECIL: I will try. This is -- not to
5 hit upon, but this has been a quest of ours for a
6 long time. It turns out that, at the end of the day
7 -- and again, the technical experts could give far
8 better explanations of this -- the PRI that Qwest
9 would have Level 3 buy and essentially convert Level
10 3 into a retail customer of Qwest, as a technical
11 matter, functionally no different than the services
12 that Level 3 provisions, which are called direct
13 inward dial.

14 I can go into deeper technical levels. I
15 fear, without some drawings and further explanation,
16 I might lose the point entirely, so if that answers
17 your question, I will stop, but if you want more
18 information, I can go further.

19 JUDGE RENDAHL: I think that's sufficient
20 for now. I appreciate that. And in going down that
21 paragraph, the -- if you look at (d) and (e) of the
22 data request, it requests locations by rate center.
23 And when you say rate center, what exactly do you
24 mean by that?

25 MR. CECIL: Rate center is a term of art in

0045

1 the traditional circuit switched world. And I guess
2 it still matters, although I think it's becoming less
3 relevant with how services are now offered on
4 competitive networks, but it is basically an area
5 around a switch, and Tom can probably jump in on
6 this, as well.

7 JUDGE RENDAHL: Is it --

8 MR. CECIL: It determines -- it's a point
9 for basically determining mileage between areas. So
10 a rate center could cover one or more actual end
11 office switches. It might roughly correspond to a
12 local calling area, but might not. And that's just
13 the beauty of telecommunications.

14 JUDGE RENDAHL: Okay. So it might encompass
15 the area that one or more wire centers would serve,
16 for example, or it could be more than that?

17 MR. CECIL: Right. A very rough
18 understanding, and other people would do a better job
19 than I of explaining that.

20 JUDGE RENDAHL: Okay.

21 MR. CECIL: More deeply, this goes to the
22 relevance, it goes to the difficulties that are
23 actually raised by what we see -- actual operational
24 difficulties of operationalizing the requirements
25 that Qwest would have us engage in in this

0046

1 interconnection agreement and the inefficiencies
2 those create. Because at the end of the day, to
3 Qwest's points about single trunking network, and
4 they actually readily admitted this, whether the
5 traffic rides feature group D network, as they would
6 have us do, or local interconnection network, there's
7 no possible way right now to track the actual
8 physical location of a VoIP end user. They have a
9 device that's mobile and that can move anywhere,
10 basically, in the world and connect to the Internet.

11 JUDGE RENDAHL: Okay. If you look at page
12 15 of the motion, it has to do with question 14 and
13 its many subparts. So if you look at page 15, and at
14 subsection L -- L and M, L refers to something called
15 an NAS, and M spells it out as network access server,
16 and what exactly is that?

17 MR. CECIL: Well, it is our understanding,
18 based upon discovery and some information that we've
19 obtained in some other places, that that device
20 actually provides some of the functionalities
21 necessary to provide voice over Internet protocol.
22 It's -- what Qwest uses, Level 3 would call that a
23 media gateway.

24 At the end of the day, one of the things
25 that's at issue is the architectures of these

0047

1 networks. And what we were trying to determine is
2 whether or not the architecture that Qwest or its
3 subsidiary would deploy actually mirrors the
4 architecture that Level 3 would deploy, and that also
5 goes to whether or not requiring Level 3 to purchase
6 retail circuits is indeed discriminatory or not.

7 I will note one thing that Mr. Dethlefs
8 mentioned that I think we should clear up at some
9 point is the question of whether or not it's even
10 technically possible for Level 3 to purchase these
11 services at a resale discount, and I'll just leave it
12 at that.

13 JUDGE RENDAHL: When you say a retail
14 discount, do you mean at TELRIC rates? Is that what
15 you're implying?

16 MR. CECIL: Think, like, as a reseller,
17 basically.

18 JUDGE RENDAHL: Resale, okay.

19 MR. CECIL: Yeah, basically, yeah. Level 3
20 could resell Qwest's incumbent service. Kind of
21 might want to ask the witnesses whether or not that
22 defeats the purpose of the point, a network in this
23 state that competes with Qwest or not.

24 JUDGE RENDAHL: Well, I can leave that up to
25 you all during the hearing. At this point, I'm just

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1 simply trying to understand enough of the lingo in
2 the data requests to resolve the motion, and so
3 that's my purpose in asking these questions.

4 Okay. I don't have any further technical
5 questions for you all. Is there anything else we
6 should address with the motions? My understanding
7 is, see if I can remember, that this order would come
8 out next week on Tuesday -- by Tuesday, to allow you
9 all to continue your efforts in discovery and
10 preparing testimony.

11 So with that, hearing nothing, the argument
12 portion of this is over, but something one or both of
13 you mentioned at the beginning triggered something
14 for me. I have still not made a decision on the
15 technical conference, and so what I'd like to do is
16 go off the record and have a conversation about
17 technical conferences just for a few minutes, since
18 you all are still here.

19 So I think with that, the oral argument
20 portion of this is done, and we will be off the
21 record. Thank you.

22 (Discussion off the record.)

23 (Proceedings adjourned at 2:26 p.m.)

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