ORIGINAL

0000024058

RECEIVED

2005 AUG 17 P 2:01

AZ CORP COMMISSION
DOCUMENT CONTROL

BEFORE THE ARIZONA CORPORATION COMMISSION

JEFF HATCH-MILLER
Chairman
MARC SPITZER
Commissioner
WILLIAM MUNDELL
Commissioner
MIKE GLEASON
Commissioner
KRISTIN MAYES
Commissioner

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, RATES, TERMS AND CONDITIONS OF INTERCONNECTION WITH QWEST CORPORATION.	DOCKET NOS. T-01051B-05-0350 T-03654A-05-0350 **QWEST CORPORATION'S SUBMISSION OF SUPPLEMENTAL AUTHORITY RELATING TO LEVEL 3'S MOTION TO COMPEL**

TO: The Arizona Corporation Commission and the Honorable Jane Rodda, Administrative Law Judge

Qwest Corporation ("Qwest"), by and through its attorneys, hereby submits the attached Order Denying Request for Hearing and Granting in Part and Denying in Part Motion to Compel ("Iowa Order") entered on August 16, 2005 by the Iowa Utilities Board ("Board") in response to a Motion of Compel filed by Level 3 Communications ("Level 3") in an identical arbitration proceeding in Iowa. The Iowa Order is attached as Exhibit A. The issues raised in Level 3's Iowa motion are not completely identical to those in the Motion to Compel currently under consideration by the Arizona Corporation Commission ("Commission"), but the differences are minimal. A key element of the Board's order is that where it ordered Qwest to respond, it limited the required responses to Iowa information.

Because the numbering for the Iowa requests and the Arizona requests are not identical,

the following chart is submitted so that the Commission may correlate the Iowa Order with the discovery requests at issue in Arizona:

Arizona Requests	Corresponding Iowa Requests
4	3
5	4
7	6
8	7 (no motion filed in Iowa)
14	13 (no motion filed in Iowa)
15	14
17(a)	18(a)
19	20
20	21
21	22
22	23
24	25 (no motion in Iowa)
25	26 (no motion in Iowa)
26	27
27	28
28(a)	29(a) (no motion in Iowa)
29	30 (no motion in Iowa)
30	31 (no motion in Iowa)
31	32 (no motion in Iowa)
32	33
33	35
43	45
44	46

45	47
56	57
57	58
58	59
59	(none) (no motion in Iowa)
66	66
82	81
88	87
96	(none) (no motion in Iowa)
99	97
100	98

Qwest Corporation hereby requests that the Commission review the Iowa Order as part of its deliberations on the pending Motion to Compel.

DATED this 17th day of August, 2005.

Respectfully submitted,

QWEST CORPORATION

Norman Curtright, Corporate Counsel
Qwest Services Corporation
4041 N. Central Ave., 11th Floor
Phoenix, Arizona 85012
Telephone: (602) 630-2187
norm.curtright@qwest.com

Thomas M. Dethlefs, Senior Attorney
Qwest Services Corporation
1801 California Street - 10th Floor
Denver, CO 80202
Telephone: (303) 383-6646
Thomas.Dethlefs@qwest.com

Ted D. Smith
Stoel Rives LLP
201 South Main Street, Ste.1100
Salt Lake City, UT 84111
Tel: 801-578-6961
tsmith@stoel.com

ORIGINAL and 13 copies hand-delivered
for filing this 17th day of August, 2005, to:

Docket Control
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

COPY of the foregoing hand delivered and emailed
this 17th day of August, 2005, to:

Jane Rodda, Administrative Law Judge
Hearing Division
ARIZONA CORPORATION COMMISSION
1200 W. Washington
Phoenix, AZ 85007
jrodda@cc.state.az.us

COPY of the foregoing hand delivered
this 17th day of August, 2005, to:

Maureen A. Scott, Esq.
Legal Division
ARIZONA CORPORATION COMMISSION
1200 W. Washington Street
Phoenix, AZ 95007

Ernest Johnson, Director
Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Copy of the foregoing mailed and emailed
this 17th day of August, 2005, to:

Thomas H. Campbell
Michael T. Hallam
LEWIS AND ROCA LLP
40 N. Central Avenue
Phoenix, AZ 85004
Email: tcampbel@lrlaw.com
mhallam@lrlaw.com

Henry T. Kelley
Joseph E. Donovan
Scott A. Kassman
Kelley, Drye & Warren, LLP
333 W. Wacker Drive
Chicago, IL 60606
Email: HKelly@KelleyDrye.com
JDonovan@KelleyDrye.com
SKassman@KelleyDrye.com

Christopher W. Savage
Cole, Raywid & Braverman, LLP
1919 Pennsylvania Avenue, NW
Washington, D.C. 20006
Email: csavage@crblaw.com

Richard E. Thayer, Esq.
Director – Intercarrier Policy
Level 3 Communications, LLC
1025 Eldorado Boulevard
Broomfield, CO 80021
Email: rick.thayer@level3.com

Erik Cecil, Regulatory Counsel
Level 3 Communications, LLC
1025 Eldorado Boulevard
Broomfield, CO 80021
Email: erik.cecil@level3.com

Diane Urban

EXHIBIT A

STATE OF IOWA

DEPARTMENT OF COMMERCE

UTILITIES BOARD

IN RE: LEVEL 3 COMMUNICATIONS, LLC, Petitioner, vs. QWEST CORPORATION, Respondent.	DOCKET NO. ARB-05-4

ORDER DENYING REQUEST FOR HEARING AND GRANTING IN PART AND DENYING IN PART MOTION TO COMPEL

(Issued August 16, 2005)

BACKGROUND

On June 30, 2005, Level 3 Communications, LLC (Level 3), filed with the Utilities Board (Board) a motion to compel discovery in Docket No. ARB-05-4, asking the Board to issue an order requiring Qwest Corporation (Qwest) to immediately provide substantive responses to Level 3's first set of data requests.

On July 7, 2005, Qwest filed its response to Level 3's motion to compel discovery. Qwest stated that it answered approximately 70 of the 106 data requests and that Qwest objected to the remaining requests. Qwest stated that Level 3 did not challenge any of these objections and, therefore, the Board should dismiss Level 3's motion.

Four weeks later, on August 5, 2005, Level 3 filed a further motion to compel responses to its first set of data requests, a request for oral hearing, and a motion for extension of time. Level 3 stated that it will be prejudiced if it is required to prepare its rebuttal testimony before it receives Qwest's responses to Level 3's data requests. Level 3 also sought an amendment of the procedural schedule to allow for the submission of rebuttal testimony on or before August 19, 2005, instead of August 12, 2005.

On August 9, 2005, the Board issued an order in this docket requiring Qwest to file a response to Level 3's August 5 motion on or before August 10, 2005. Also in that order, the Board denied Level 3's request to amend the procedural schedule because such an amendment would not provide the Board sufficient time to prepare for the hearing in this docket.

On August 10, 2005, Qwest filed a response to Level 3's August 5 motion. In its response, Qwest states that many of Level 3's requests are unreasonable, overly broad, and are not likely to lead to the discovery of admissible evidence. Qwest requests the Board deny Level 3's motion.

As part of its August 5 motion, Level 3 requests a hearing before the Board regarding its motion to compel. The Board notes that Level 3's initial motion to compel data requests was filed with the Board on June 30, 2005, and Qwest filed its initial response on July 7, 2005. The Board did not receive any additional information

from either party regarding improper requests or inadequate responses until Level 3's August 5 motion, nearly a month after Qwest's response.

Pursuant to an agreement by the parties, the deadline for Board action in this docket is November 1, 2005, and the procedural schedule in this docket, as established in the Board's June 30, 2005, order, was created to give the parties due process and allow the Board to act on the petition in a timely manner. The hearing for this docket is scheduled for August 30, 2005, and various schedule conflicts preclude setting the hearing for a later date. Having lost a significant amount of time in an already tight schedule, a hearing at this time on Level 3's motion to compel would not allow the Board to act on the petition for arbitration in the time frame agreed by the parties. Therefore, the Board will not set Level 3's motion for hearing. Rather, the Board will rule on the motion based on the written submissions by both parties.

DATA REQUEST NO. 3:

In Data Request No. 3, Level 3 seeks information regarding Qwest's offering of Internet access services in Iowa, including the number of end user and wholesale customers Qwest has in Iowa. Level 3 also asks that the response include information regarding each end office in the state and a list of each local calling area in the state where Qwest maintains a physical presence.

Qwest objects to this request because it asks for information regarding end user customers and wholesale customers its affiliates have in Iowa, which constitutes

a trade secret and is highly confidential and proprietary. Qwest also objects to this request on the grounds that it is not relevant and will not result in the discovery of admissible evidence.

Level 3 states that this request is directly relevant to Issue 3 in its petition for arbitration and concerns whether the geographic location of the Internet service provider (ISP) is relevant to compensation exchanged by the parties for the transport and termination of ISP-bound traffic. Level 3 contends that the jurisdiction of calls should be determined by the NPA-NXX, in accordance with long-standing industry practice. Level 3 asserts that Qwest is attempting to rate traffic based upon the physical location of the customers, not the NPA-NXX. Level 3 also states that a protective order has been entered in this case and, therefore, Qwest's confidentiality objection is moot.

Qwest states that this request does not seek any information relevant to this proceeding. Qwest states that its position in this proceeding is that under the North American Numbering Plan (NANP), NPA-NXXs are supposed to be assigned to customers that are physically located in the same rate center to which the NPA-NXXs are assigned; thus, calls are rated as local or toll based on the rate centers in which the parties are located. Qwest states that this request does not seek information that relates to the assignment of NPA-NXXs and that the number of Qwest's Internet access customers has no bearing on the VNXX issue. Qwest also states that there

has not been any request made to the Board for the issuance of a protective order and that there is no protective agreement between Qwest and Level 3 in Iowa.

Analysis

The Board finds that Level 3's request, as written, is within the scope of this proceeding and could result in the production of admissible evidence. The Board will require Qwest to respond to Level 3's request. The Board also finds, however, that the number of end user customers and wholesale customers that Qwest has in Iowa is confidential in nature. Level 3 indicates that a protective order exists; Qwest states that there is not one. The Board notes that it has not been asked by either party to issue a protective order in this proceeding. Absent a protective agreement between the parties, Qwest will not be required to respond to Level 3's request with respect to specific customer count information.

DATA REQUEST NO. 4:

In Data Request No. 4, Level 3 asks for information regarding whether Qwest offers dedicated inward dialing (DID) or dedicated outward dialing (DOD) services to ISPs in Iowa.

Qwest's initial response states that it is in the process of preparing a response to this request.

Level 3 states that as of August 5, 2005, Qwest had not provided a response to this request.

Qwest responds by stating that it has now prepared and served an answer to Level 3's request.

Analysis

Based on Qwest's statement that it has prepared and served an answer to Level 3's request No. 4, the Board finds that this request has been satisfied.

DATA REQUEST NO. 6(b):

In its Data Request No. 6(b), Level 3 seeks the number of retail and wholesale customers of Voice over Internet Protocol (VoIP) in Iowa.

Qwest objects to this request on the grounds that the information is a trade secret and is confidential. Qwest also states that the request asks for information that is not relevant to this proceeding.

Level 3 states that the information requested in No. 6(b) is needed to demonstrate the effect that Qwest's VoIP interconnection proposal will have on Level 3.

Qwest states that Qwest does not offer VoIP and that it is the number of Level 3 VoIP customers that will determine the impact of Qwest's VoIP proposal on the Interconnection Agreement.

Analysis

The Board finds that Level 3's request, as written, is within the scope of this proceeding and could result in the production of admissible evidence. The Board will require Qwest to respond to Level 3's request. The Board also finds, however, that

the number of Qwest's retail and wholesale customers in Iowa is confidential in nature. Level 3 indicates that a protective order exists; Qwest states that there is not one. The Board notes that it has not been asked by either party to issue a protective order in this proceeding. Absent a protective agreement between the parties, Qwest will not be required to respond to Request No. 6(b) with respect to specific customer count information.

DATA REQUEST NO. 6(e):

In Data Request No. 6(e), Level 3 seeks to determine whether Qwest purchases any wholesale VoIP services from any other provider. Level 3's request also asks for the name of the provider, the services purchased, and the various states in which such service is purchased.

Qwest objects to this request on the grounds that the request seeks information concerning Qwest's purchases of services outside the state of Iowa and outside the 14-state territory where Qwest operates as the incumbent local exchange carrier (ILEC). Qwest also states that the request is overly broad, burdensome, and is not likely to lead to the discovery of admissible evidence.

Level 3 states that request No. 6(e) is relevant to the disputed issue regarding whether Qwest and Level 3 will compensate each other at the rate of $0.0007 per minute of use for the exchange of IP-enabled or VoIP traffic. Level 3 also states that at a minimum, Qwest should be required to provide Iowa information in response to this request.

Qwest states that there is no justification for requesting Qwest to provide information pertaining to states outside of Iowa. Qwest also asserts that this request does not relate to whether Qwest and Level 3 will compensate each other at the rate of $0.0007 per minute of use for VoIP traffic. Qwest again states that it does not offer VoIP.

Analysis

The Board finds that Level 3's request, as written, is overly broad insofar as it seeks information regarding Qwest's purchases of services outside Iowa. It is unclear whether the information will lead to the production of relevant or admissible evidence. As such, the Board will require Qwest to respond to this request with Iowa information, to the extent it is available.

DATA REQUEST NO. 13

In Data Request No. 13, Level 3 seeks information regarding every state in which Qwest or one of its affiliates offers service. The subparts to Request No. 13 seek information concerning five different circumstances.

Qwest objects to this request to the extent that it seeks information about states other than Iowa and says it is overbroad when it includes states in which Qwest is not the ILEC. Qwest also states that the request is irrelevant, overbroad, burdensome, and is not likely to lead to the discovery of admissible evidence.

Level 3 states that the information sought in this request is central to the disputed issue regarding whether Level 3 may exchange all traffic over the

interconnection trunks established under the Interconnection Agreement. Level 3 states that it seeks to use its existing trunk groups to exchange all traffic with Qwest, but Qwest seeks to limit Level 3's ability to use trunks efficiently. Level 3 states that information related to Qwest's current practices, the practices of its affiliates, and the obligations imposed on competitive local exchange carriers (CLECs) with which Qwest exchanges traffic, is central to understanding and rebutting Qwest's position in this proceeding.

Qwest states that it maintains its objection because Level 3 has not agreed to limit this request to the state of Iowa, to the commingling of traffic on interconnection trunks, or to interconnection with Qwest. Qwest also states that its affiliates do not have interconnection obligations under Section 251 of the Telecommunications Act of 1996 (the Act) and, therefore, this request is overbroad.

Analysis

The Board finds that Level 3's request, as written, is overly broad insofar as it seeks information regarding Qwest and Qwest's affiliates outside of Iowa. Qwest has not appeared to object to the production of the requested information as it relates to Iowa. As such, the Board will require Qwest to respond to this request with information limited to Iowa and limited to the commingling of traffic on interconnection trunks or to the interconnection with Qwest.

DATA REQUEST NOS. 14, 17

In Data Request Nos. 14 and 17, Level 3 seeks information concerning every local calling area in the country in which Qwest and Qwest's CLEC affiliates have trunk groups.

Qwest objects to these requests on the grounds that they are unduly burdensome, seek information about the activities of Qwest's affiliates in states other than Iowa, and are irrelevant and not likely to lead to the discovery of admissible evidence.

Level 3 states that the information sought in this request is central to the disputed issue regarding whether Level 3 may exchange all traffic over the interconnection trunks established under the Interconnection Agreement. Level 3 states that it seeks to use its existing trunk groups to exchange all traffic with Qwest, but Qwest seeks to limit Level 3's ability to use trunks efficiently. Level 3 states that information related to Qwest's current practices, the practices of its affiliates, and the obligations imposed on CLECs with which Qwest exchanges traffic is central to understanding and rebutting Qwest's position in this proceeding.

Qwest states that the requests are extraordinarily burdensome because there are thousands of local calling areas in the United States. Qwest also states that these requests seek information concerning trunk groups operated by Qwest's CLEC affiliates who are not parties to this proceeding.

Analysis

The Board agrees with Qwest and finds this request to be unduly burdensome. Qwest is not required to respond to Data Request Nos. 14 and 17.

DATA REQUEST NO. 18

In Data Request No. 18, Level 3 seeks information regarding the states in which Qwest combines CLEC local and toll traffic on a single trunk. The subparts of this request also ask Qwest to provide a list of all CLECs for whom Qwest combines traffic and when Qwest started to combine this traffic.

Qwest objects to this request on the grounds that it is unduly burdensome, seeks information about the activities of its affiliates in states other than Iowa, is irrelevant, and is not likely to lead to the discovery of admissible evidence.

Level 3 states that the information sought in this request is central to the disputed issue regarding whether Level 3 may exchange all traffic over the interconnection trunks established under the Interconnection Agreement. Level 3 states that it seeks to use its existing trunk groups to exchange all traffic with Qwest, but Qwest seeks to limit Level 3's ability to use trunks efficiently. Level 3 states that information related to Qwest's current practices, the practices of its affiliates, and the obligations imposed on CLECs with which Qwest exchanges traffic is central to understanding and rebutting Qwest's position in this proceeding.

Qwest states that this request is not limited to Iowa, to interconnection trunks, or to Qwest's ILEC operations. Qwest also states that Level 3 appears to want

Qwest to perform a historical study of traffic passing across trunk groups to determine when traffic was first combined.

Analysis

The Board finds that this request, as written, is overly broad insofar as it seeks information regarding Qwest and Qwest's affiliates outside of Iowa. Qwest has not appeared to object to the production of the requested information in Request No. 18(a) as it relates to Iowa. As such, the Board will require Qwest to respond to Request No. 18(a) with information limited to Iowa and limited to the commingling of traffic on interconnection trunks or to the interconnection with Qwest.

The Board finds the information sought in Request No. 18(b), however, to be overly broad and burdensome. Qwest is not required to respond to Request No. 18(b).

DATA REQUEST NO. 20

In Data Request No. 20, Level 3 seeks information regarding each CLEC with which Qwest exchanges local and toll traffic and uses a percent local use (PLU) or similar method of establishing the apportionment of local versus toll traffic on the combined trunk group in the 14 states where Qwest operates as an ILEC.

Qwest objects to this request on the grounds that it is unduly burdensome, seeks information about the activities of its affiliates in states other than Iowa, and is irrelevant and not likely to lead to the discovery of admissible evidence.

Level 3 states that the information sought in this request is central to the disputed issue regarding whether Level 3 may exchange all traffic over the interconnection trunks established under the Interconnection Agreement. Level 3 states that it seeks to use its existing trunk groups to exchange all traffic with Qwest, but Qwest seeks to limit Level 3's ability to use trunks efficiently. Level 3 states that information related to Qwest's current practices, the practices of its affiliates, and the obligations imposed on CLECs with which Qwest exchanges traffic is central to understanding and rebutting Qwest's position in this proceeding.

Qwest states that this request seeks information that is contained in the interconnection agreements for each CLEC in each of the 14 states where Qwest is the ILEC and that these interconnection agreements are publicly available to Level 3 through the various state public utility commissions. Qwest states that there are over 1,000 interconnection agreements on file throughout the 14 states where Qwest operates as the ILEC and that these agreements are more easily reviewed by Level 3 since Level 3 knows what specific information is wanted.

Analysis

The Board agrees with Qwest and finds that this request, as written, is overly broad insofar as it seeks information outside of Iowa. Qwest appears not to object to the production of the requested information in Request No. 20 as it relates to Iowa. As such, the Board will require Qwest to respond to Request No. 20 with information

limited to Iowa and limited to the interconnection agreements it has with CLECs in Iowa.

DATA REQUEST NO. 21

In Data Request No. 21, Level 3 seeks information regarding Qwest's CLEC affiliates and whether they combine local and toll traffic on a single trunk group. Level 3 also seeks information regarding whether Qwest's CLEC affiliates use a PLU or similar method of establishing the apportionment of local versus toll traffic on the combined trunk group.

Qwest objects to this request on the grounds that it seeks information regarding Qwest's affiliates' operations in states other than Iowa. Qwest also objects on the grounds that the request seeks information that is irrelevant and not likely to lead to the discovery of admissible evidence.

Level 3 states that the information sought in this request is central to the disputed issue regarding whether Level 3 may exchange all traffic over the interconnection trunks established under the Interconnection Agreement. Level 3 states that it seeks to use its existing trunk groups to exchange all traffic with Qwest, but Qwest seeks to limit Level 3's ability to use trunks efficiently. Level 3 states that information related to Qwest's current practices, the practices of its affiliates, and the obligations imposed on CLECs with which Qwest exchanges traffic, is central to understanding and rebutting Qwest's position in this proceeding.

Qwest states that this request is not limited to Iowa, to interconnection trunks, or to Qwest's ILEC operations. Qwest also states that Level 3 appears to want Qwest to perform a historical study of traffic passing across trunk groups to determine when traffic was first combined.

Analysis

The Board finds that this request, as written, is overly broad insofar as it seeks information regarding Qwest's affiliates outside of Iowa. Qwest appears not to object to the production of the requested information in Request No. 21 as it relates to Iowa. As such, the Board will require Qwest to respond to Request No. 21 with information limited to Iowa and limited to the commingling of traffic on interconnection trunks or to the interconnection with Qwest.

DATA REQUEST NOS. 22 and 23

In Data Request Nos. 22 and 23, Level 3 seeks information regarding each system that Qwest uses to estimate or track the amount of local and toll traffic exchanged with a CLEC and whether Qwest is aware of any state commissions that require separate trunk groups for transit traffic.

Qwest objects to these requests on the grounds that they are overbroad, seek information about Qwest operations in states other than Iowa, and that the requests seek information that is irrelevant and not likely to lead to the production of admissible evidence.

Level 3 states that the information sought in this request is central to the disputed issue regarding whether Level 3 may exchange all traffic over the interconnection trunks established under the Interconnection Agreement. Level 3 states that it seeks to use its existing trunk groups to exchange all traffic with Qwest, but Qwest seeks to limit Level 3's ability to use trunks efficiently. Level 3 states that information related to Qwest's current practices, the practices of its affiliates, and the obligations imposed on CLECs with which Qwest exchanges traffic is central to understanding and rebutting Qwest's position in this proceeding.

Qwest states that neither of these requests is limited to Iowa. Qwest also states, however, that if these two requests are limited to Iowa, Qwest will withdraw its objection and provide responses.

Analysis

Qwest has agreed to provide responses to Level 3 if these requests are limited to Iowa. The Board will require Qwest to respond to Requests Nos. 22 and 23 with information limited to Iowa.

DATA REQUEST NO. 46

In Data Request No. 46, Level 3 seeks information regarding the number of CLECs in Iowa for which Qwest assigns traffic to different jurisdictional or rating categories based on PLU or similar factors.

Qwest objects to this request on the grounds that it is burdensome and would require a special study. Qwest also objects on the grounds that the request is not likely to lead to the production of admissible evidence.

Level 3 states that the information sought in this request is central to the disputed issue regarding whether Level 3 may exchange all traffic over the interconnection trunks established under the Interconnection Agreement. Level 3 states that it seeks to use its existing trunk groups to exchange all traffic with Qwest, but Qwest seeks to limit Level 3's ability to use trunks efficiently. Level 3 states that information related to Qwest's current practices, the practices of its affiliates, and the obligations imposed on CLECs with which Qwest exchanges traffic is central to understanding and rebutting Qwest's position in this proceeding.

Qwest responds that it is not clear to Qwest what Level 3 means by "assign traffic to different jurisdictional" or rating categories. Qwest states that when PLU or similar factors are used, they are applied to an overall volume of traffic and are not used to determine the rating or jurisdiction of individual calls. Qwest reiterates that to answer this question would require a special study.

Analysis

The Board finds that based on Qwest's assertion that PLU factors are applied to an overall volume of traffic, this request is vague and ambiguous. The Board also finds that Level 3 has not established that Qwest should be required to conduct a

special study to answer this request. As such, the Board will not require Qwest to respond to Request No. 46.

DATA REQUEST NOS. 27, 28, 32, and 33

In Data Request Nos. 27, 28, 32, and 33, Level 3 seeks information regarding whether Qwest offers any foreign exchange (FX) or similar services. Specifically, Level 3 seeks information regarding the identification of FX or FX-like services, the product descriptions, the number of customers and lines in Iowa, how long the service has been ordered by Qwest, the number of ISPs that purchase the service, whether Qwest has billed or received reciprocal compensation or other terminating compensation for calls received from Qwest's FX or FX-like customers and details regarding such billings, and whether Qwest has paid access charges to the originating carrier for calls originated by another carrier and terminated to a Qwest FX or FX-like customer.

Qwest objects to these requests on the grounds that they seek information beyond Iowa, that Level 3 can obtain responsive information regarding these requests from its catalogs and tariffs, and that the requests seek confidential information. Qwest also objects on the grounds that the requests are overly burdensome and are irrelevant and not likely to result in the production of admissible evidence.

Level 3 states that the information sought in these requests is relevant to Issue 3, which involves whether intercarrier compensation applies to all ISP-Bound

traffic, including FX and FX-like services. Level 3 states that its service provides the same functionality as FX and FX-like services and that Qwest treats its FX and FX-like services as local service. Level 3 contends that Qwest seeks to impair Level 3's ability to compete with Qwest's FX and FX-like service by imposing access charges on Level 3's comparable FX service.

Qwest states that these requests are difficult to answer because Level 3 does not define what it means by "FX-like." Qwest asserts that it is Level 3's responsibility to provide the criteria to be used for determining whether services are FX-like. Qwest also states that the descriptions, terms, and conditions for the services Qwest offers are set forth in its tariffs and catalogs that are publicly available to Level 3. Qwest also states that none of these requests are limited to Iowa.

Analysis

The Board finds that despite Qwest's confusion over the definition of "FX-like," these requests are not vague or ambiguous. However, these requests, as written, are overly broad insofar as they seek information outside of Iowa. Qwest has not appeared to object to the production of the requested information in these requests as it relates to Iowa. As such, the Board will require Qwest to respond to Request Nos. 27, 28, 32, and 33 with information limited to Iowa.

DATA REQUEST NOS. 45 and 47

In Data Request Nos. 45 and 47, Level 3 seeks information regarding the number of points of interconnection (POIs) in Iowa between Qwest and CLECs, as

well as information regarding how many CLECs in Iowa connect to Qwest's network by means of a Qwest-supplied entrance facility, a CLEC-supplied facility, or some other means.

Qwest objects to these requests on the grounds that they are unreasonably burdensome and that providing a response would require a special study. Qwest also objects on the grounds that the information is not likely to lead to the production of admissible evidence.

Level 3 states that the information requested is relevant to Issue 1 of the arbitration proceeding regarding the number of POIs per LATA that may be allowed under the agreement.

Qwest states that to answer these requests, Qwest would have to review the interconnection arrangements that are in place for each CLEC that has an interconnection agreement in Iowa and conduct a special study of the facilities that are actually in place for each CLEC. Qwest states that there is no central repository of this information.

Analysis

The Board finds that Request No. 45 regarding the number of POIs that exist in Iowa between Qwest and CLECs is reasonable. Qwest is required to respond to Request No. 45.

However, based on Qwest's statement that the information sought in Request No. 47 is not readily available in a central repository, the Board finds that this

request, as written, is unduly burdensome. Qwest is not required to submit a response to Data Request No. 47.

REQUEST FOR ADMISSION NO. 66

In Request for Admission No. 66, Level 3 asks Qwest to admit that Qwest's VoIP offering is less expensive than Qwest's Choice Home Plus package.

Qwest states that it cannot admit or deny this request because it is not clear what is being referred to by "Qwest VoIP offering."

Level 3 states that Qwest's objection is designed to avoid providing an easy explanation. Level 3 also states that the request is based upon information found on Qwest's Web site.

Qwest states that a review of the Web site cited by Level 3 indicates that both Qwest's VoIP offering and the Choice Home Plus package have a base rate plus a rate for other features and services such as long distance. Qwest asserts that Level 3 has not been clear what packages it wants Qwest to compare.

Analysis

It appears that this request seeks information that could easily be obtained by viewing the Web sites cited by Level 3 and further explored at hearing in this proceeding. Nevertheless, the Board finds Qwest's response to be inadequate. Qwest is required to admit or deny the request based on the base rate for the VoIP offering and Choice Home Plus.

REQUESTS FOR ADMISSION NOS. 71, 72, 76, 77, 81, 95, 97, 98, 99, 101, and 102

In these Requests for Admission, Level 3 asks for Qwest to admit or deny information relating to interconnection contract language (71), local exchange services (72), increased competition for wireline voice service (76), federal and state regulatory policies (77), end office and tandem switches (81), rules by the Federal Communications Commission (FCC) regarding interexchange carriers (95), collocation equipment (97), revenues for Qwest's local voice services (98), origination and termination of local calls by VoIP providers (99), and recent FCC orders (101 and 102).

Qwest objects to these requests on the grounds that they are overly broad and that there are too many variables to predict the result described is probable, along with other objections. Notwithstanding these objections, in each case Qwest provided some form of explanatory response supporting its reasons for declining to answer.

Level 3 asserts that Qwest has not provided rational, reasonable basis for its failure to admit or deny these requests.

Qwest states that its objections are reasonable and that it has stated its reasons for not being able to admit or deny each request.

Analysis

The Board has reviewed each of these Requests for Admission as well as Qwest's responses and objections. The Board finds that Qwest has provided

sufficient explanations regarding its inability to admit or deny each request and that Qwest has, in many cases, provided Level 3 with appropriate information that can be further explored at hearing in this proceeding, if necessary. Therefore, the Board finds that Requests for Admission Nos. 71, 72, 76, 77, 81, 95, 97, 98, 99, 101, and 102 have been adequately answered.

REQUESTS FOR ADMISSION NOS. 57, 58, and 59

In Requests for Admission Nos. 57, 58, and 59, Level 3 asks Qwest to admit or deny whether certain information exists in Qwest's federal and state tariffs regarding intercarrier compensation for VoIP traffic and information services.

Qwest objects to these requests on the grounds that they call for legal conclusions and are not appropriate subjects for discovery. Qwest also states that its state and federal tariffs speak for themselves.

Level 3 asserts that Qwest has failed to undertake a reasonable investigation of its tariffs to respond to these requests.

Qwest states that it clearly denied these requests for admission and that there is no failure by Qwest to respond to Level 3.

Analysis

The Board has reviewed these Requests for Admission as well as Qwest's responses and objections. The Board finds that Qwest denied Level 3's requests and supplied appropriate information in support of those denials that can be further

explored at hearing in this proceeding, if necessary. Therefore, the Board finds that Requests for Admission Nos. 57, 58, and 59 have been adequately answered.

REQUESTS FOR ADMISSION NOS. 86 and 87

Requests for Admission Nos. 86 and 87 ask Qwest to admit or deny information regarding Qwest's call routing systems and billing systems.

Qwest denies the requests and references previous responses to support its position.

Level 3 states that Qwest's responses are not responsive.

Qwest states that it denied these requests and has fully satisfied any obligation it has to respond to these requests.

Analysis

The Board has reviewed Requests for Admission Nos. 86 and 87 as well as Qwest's responses and objections. The Board finds that Qwest denied Level 3's requests and supplied appropriate information in support of those denials that can be further explored at hearing in this proceeding, if necessary. Therefore, the Board finds that Requests for Admission Nos. 86 and 87 have been adequately answered.

IT IS THEREFORE ORDERED:

1. The Motion to Compel Discovery Responses filed by Level 3 Communications, LLC, on June 30, 2005, and amended on August 5, 2005, is granted in part and denied in part as described in this order. Qwest is directed to

respond to the appropriate data requests and requests for admission within three days of the date of this order.

2. The request for hearing regarding the Motion to Compel Discovery Responses filed by Level 3 Communications, LLC, on August 5, 2005, is denied as described in this order.

3. On or before August 22, 2005, Level 3 Communications, LLC, may file supplemental testimony and exhibits based on the information produced in response to this order.

UTILITIES BOARD

/s/ John R. Norris

/s/ Diane Munns

ATTEST:

/s/ Margaret Munson
Executive Secretary, Deputy

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 16th day of August, 2005.