



BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

2005 SEP 14 P 2:52

JEFF HATCH-MILLER Chairman  
WILLIAM A. MUNDELL  
MARC SPITZER  
MIKE GLEASON  
KRISTIN K. MAYES

AZ CORP COMMISSION  
DOCUMENT CONTROL

LEVEL 3 COMMUNICATIONS, LLC,  
Complainant,

DOCKET NO. T-01051B-05-0415

vs.

DOCKET NO. T-03654A-05-0415

QWEST CORPORATION,  
Respondent.

PROCEDURAL ORDER

**BY THE COMMISSION:**

On June 10, 2005, Level 3 Communications, LLC ("Level 3") filed a formal Complaint with the Arizona Corporation Commission ("Commission") against Qwest Corporation ("Qwest"), seeking to enforce the rates, terms and conditions of Level 3's Interconnection Agreement with Qwest.

On July 5, 2005, Qwest filed its Answer to Level 3's Complaint and its Counterclaims.

By Procedural Order dated August 3, 2005, a Procedural Conference convened with the purpose of establishing procedural guidelines and setting a schedule. The parties are litigating similar proceedings in several states. In addition, there is some overlap of issues raised in this Complaint with issues raised in a pending arbitration between Level 3 and Qwest (Docket No. T-03654A-05-0350). The parties appear to believe that the matter can be addressed based on legal briefs. To the extent a Commission Decision on the legal issues does not completely resolve all issues in the Complaint, the parties proposed to present testimony on the remaining issues.

Based on the parties' experiences with these issues in other states and their joint recommendation, proceeding with consideration of this Complaint based on legal briefs, similar to the concept of simultaneous motions for summary judgment, appears to be an efficient and effective manner of proceeding. A Commission Decision may completely resolve the matter, and at a

1 minimum should narrow the issues for an evidentiary proceeding. Following briefing the  
2 Administrative Law Judge can evaluate whether an evidentiary proceeding or oral argument is  
3 required prior to a Decision on the briefs.

4 IT IS THEREFORE ORDERED that the parties shall file simultaneous **Opening Briefs** on  
5 or before **October 3, 2005**. In their Opening Briefs the parties shall identify any material issues of  
6 disputed facts that would prevent a complete resolution of this matter without a hearing.

7 IT IS FURTHER ORDERED that the parties shall file simultaneous **Responsive Briefs** on or  
8 before **October 24, 2005**.

9 IT IS FURTHER ORDERED that to the extent there are no material issues of disputed fact,  
10 the Commission may resolve this matter without a hearing.

11 IT IS FURTHER ORDERED that discovery shall be as permitted by law and the rules and  
12 regulations of the Commission, except that any objection to discovery requests shall be made within  
13 7 days<sup>1</sup> of receipt and responses to discovery requests shall be made within 10 days of receipt; the  
14 response time may be extended by mutual agreement of the parties involved if the request requires an  
15 extensive compilation effort.

16 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel  
17 discovery, any party seeking discovery may telephonically contact the Commission's Hearing  
18 Division to request a date for a procedural hearing to resolve the discovery dispute; that upon such a  
19 request, a procedural hearing will be convened as soon as practicable; and that the party making such  
20 a request shall forthwith contact all other parties to advise them of the hearing date and shall at the  
21 hearing provide a statement confirming that the other parties were contacted.<sup>2</sup>

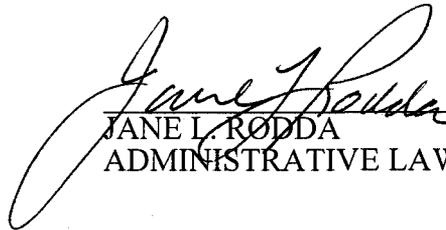
22 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized  
23 Communications) applies to this proceeding as the matter is now set for public hearing.

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25 ...

27 <sup>1</sup> "Days" means calendar days.  
28 <sup>2</sup> The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before seeking Commission resolution of the controversy.

1 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive  
2 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

3 DATED this 12<sup>th</sup> day of September, 2005.

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6   
7 JANE L. RODDA  
8 ADMINISTRATIVE LAW JUDGE

9  
10 Copies of the foregoing mailed/delivered  
11 This 12<sup>th</sup> day of September, 2005 to:

12 Thomas H. Campbell  
13 Michael T. Hallam  
14 Lewis and Roca LLP  
15 40 North Central Avenue  
16 Phoenix, Arizona 85004

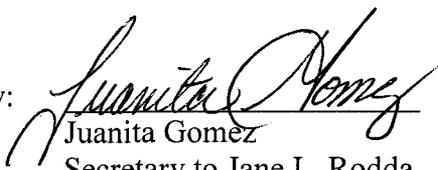
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6 By:   
7 Juanita Gomez  
Secretary to Jane L. Rodda  
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