

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Complaint of
Level 3 Communications, LLC,
Against Qwest Corporation
Regarding Compensation for ISP-
Bound Traffic

FOURTH PREHEARING ORDER

This matter came on for a telephone prehearing conference before Administrative Law Judge Kathleen D. Sheehy at 9:30 a.m. on May 30, 2006.

Gregory Merz, Esq., Gray Plant Mooty, 500 IDS Center, 80 South Eighth Street, Minneapolis, MN 55402-3796, and Victoria Mandell, Esq., Level 3 Communications, Inc. (Level 3), 1025 Eldorado Boulevard, Broomfield, CO 80021, appeared for Level 3.

Jason Topp, Esq., Qwest Corporation (Qwest) Law Department, 200 South Fifth Street, Room 2200, Minneapolis, MN 55402, and Thomas Dethlefs, Esq., 1801 California St., Suite 3800, Denver, CO 80202, appeared for Qwest.

Linda S. Jensen, Assistant Attorney General, 445 Minnesota Street, Suite 900, St. Paul, Minnesota 55101, appeared on behalf of the Minnesota Department of Commerce (Department). Greg Doyle and Kathy Doherty also participated on behalf of the Department.

Based on the discussions during the prehearing conference, and all of the files and proceedings, the Administrative Law Judge makes the following:

ORDER

1. The parties to this matter as named in the Commission's Notice and Order for Hearing of June 3, 2005, are Level 3, Qwest, and the Department.

2. Any other person seeking to participate in the hearing pursuant to Minn. R. 1400.6200, subp. 5, shall file a Notice of Participant Status with the Administrative Law Judge and serve a copy on all other parties by June 9, 2006. The Notice shall explain the extent to which the person would like to participate.

ISSUES

3. Pursuant to the Commission's Order Adopting Recommendations and Remanding for Further Proceedings, dated May 8, 2006, the issues to be addressed at the hearing are:

the appropriate amendment to the Level 3/Qwest ICA consistent with the ALJ's Recommendation on Motions for Summary Disposition, dated January 18, 2006; and

whether the amendment language proposed by the Department, and proposed in modified form by Level 3, is consistent with the definition of "ISP-bound traffic" as used in the *ISP Remand Order*.

SCHEDULE

4. The following schedule is adopted:

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|---|-------------------|
| •Additional Direct Testimony by Qwest and Level 3. | June 12, 2006 |
| •Additional Direct Testimony of the Department. | July 14, 2006 |
| •Evidentiary Hearing, beginning at 9:30 a.m. in the Commission Offices at 121 Seventh Place East, Suite 350, St. Paul, Minnesota. | July 25-26, 2006 |
| •Post-Hearing Briefs | August 18, 2006 |
| ALJ Recommendation | September 8, 2006 |

EXAMINATION OF WITNESSES

5. Witnesses shall be allowed up to 30 minutes to summarize their prefiled testimony and to respond to any new matters raised in the prefiled testimony of other witnesses. Cross-examination of any witness may include direct questions by any party, the Administrative Law Judge, or Commission staff regarding the substance of the testimony.

6. Except for good cause shown, objections by any party relating to the qualifications of a witness or the admissibility of any portion of a witness's prefiled testimony shall be considered waived unless the objecting party, by **July 19, 2006**, states by motion its objection with particularity to the Administrative

Law Judge and serves a copy of such objections on the Commission and all other parties.

Dated this 30th day of May, 2006.

s/Kathleen D. Sheehy

KATHLEEN D. SHEEHY
Administrative Law Judge