

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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<p>IN RE:</p> <p>LEVEL 3 COMMUNICATIONS, LLC,</p> <p style="padding-left: 40px;">Petitioner,</p> <p style="text-align:center">vs.</p> <p>QWEST CORPORATION,</p> <p style="padding-left: 40px;">Respondent.</p>	<p style="text-align:center">DOCKET NO. ARB-05-4</p>
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**ORDER REQUESTING RESPONSE**

(Issued August 9, 2005)

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, wherein Level 3 requests the Board 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 wherein Qwest states that it answered approximately 70 of the 106 data requests and that Qwest objected to the remaining requests. Qwest states that Level 3 did not challenge any of these objections and, therefore, the Board should dismiss Level 3's motion.

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. In support of its motion, Level 3 states that pursuant to the procedural schedule established by Board order in this docket issued June 30, 2005, rebuttal testimony is due on or before August 12, 2005, and a hearing is set for August 30, 2005. Level 3 states 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. Therefore, Level 3 seeks an amendment of the procedural schedule to allow for the submission of rebuttal testimony on or before August 19, 2005.

The Board has reviewed Level 3's request with respect to the procedural schedule established in this docket. 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 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. It appears that the extension of time proposed by Level 3 would not allow sufficient time for the Board to prepare for the hearing in this docket.

The Board will require Qwest to submit a response to Level 3's motion on or before August 10, 2005. The Board will deny Level 3's request to amend the procedural schedule at this time and will require that rebuttal testimony be filed on or

before August 12, 2005, as indicated in the Board's order of June 30. However, the Board may allow one or both parties to file a supplement to their rebuttal testimony after the Board makes a final determination regarding Level 3's motion to compel responses.

**IT IS THEREFORE ORDERED:**

1. Qwest Corporation is required to file a response to the motion to compel responses to data requests filed by Level 3 Communications, LLC, on August 5, 2005, on or before August 10, 2005.

2. The request to amend the procedural schedule filed by Level 3 Communications, LLC, on August 5, 2005, is denied as described in this order.

**UTILITIES BOARD**

/s/ John R. Norris

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ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 9<sup>th</sup> day of August, 2005.