

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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IN RE:  LEVEL 3 COMMUNICATIONS, LLC,  Petitioner,  vs.  QWEST CORPORATION,  Respondent.	DOCKET NO. ARB-05-4
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**ORDER GRANTING MOTIONS AND ACCEPTING LATE-FILED TESTIMONY**

(Issued August 29, 2005)

On August 22, 2005, Level 3 Communications, LLC (Level 3), filed with the Utilities Board (Board) a motion for an extension of time to file supplemental testimony permitted by order in this docket on August 16, 2005. Pursuant to the Board's August 16 order, Level 3 was allowed to file supplemental rebuttal testimony on or before August 22, 2005. The supplemental testimony was to be filed in response to additional discovery responses by Qwest Corporation (Qwest), which were to be served on Level 3 on or before August 19, 2005. Level 3 requested an extension of time until August 25, 2005, to submit its supplemental testimony. However, Level 3 filed its supplemental testimony with the Board on August 24, 2005.

In support of its request, Level 3 states that Qwest did not serve its additional discovery responses on Level 3 until after the close of business on August 19, 2005.

Level 3 states that because the responses were served after the close of business, they should be deemed received on August 22, 2005, and Level 3 argues that it should be allowed three days to complete its supplemental testimony as contemplated by the Board's August 16 order.

The Board has reviewed Level 3's request and finds that an extension of time is reasonable. The testimony was filed two days after the deadline for filed testimony. No objection to Level 3's motion has been received. Therefore, the Board will grant Level 3's motion and accept the supplemental testimony filed on August 24, 2005.

On August 24, 2005, Level 3 filed a motion to substitute one of its witnesses. Level 3 states that its witness Rogier R. Ducloo filed direct and rebuttal testimony in this docket, but due to scheduling conflicts, Mr. Ducloo is unable to participate in the hearing scheduled for August 30, 2005. Level 3 requests the Board accept Mack D. Greene as a witness in place of Mr. Ducloo. Level 3 has provided information on Mr. Greene's background and states that Mr. Greene will adopt Mr. Ducloo's testimony for purposes of cross-examination.

The Board has reviewed Level 3's request and finds that it is reasonable. The Board will grant the substitution of Mr. Greene as witness for Level 3.

**IT IS THEREFORE ORDERED:**

1. The "Motion for Additional Time to File Supplemental Testimony" filed by Level 3 Communications, LLC, on August 22, 2005, is granted and the late-filed supplemental testimony is accepted.

2. The "Motion to Substitute Witness" filed by Level 3 Communications, LLC, on August 24, 2005, is granted.

**UTILITIES BOARD**

/s/ John R. Norris

/s/ Diane Munns

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 29<sup>th</sup> day of August, 2005.