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Exhibit 2

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Hypercube Telecom, LLC (U-6592-C)
Complainant,

v.

Level 3 Communications, LLC (U-5941-C)

Defendant.

C.09-05-009

**RESPONSES AND OBJECTIONS OF LEVEL 3 COMMUNICATIONS, LLC TO
FIRST DATA REQUESTS AND REQUESTS FOR ADMISSIONS OF
HYPERCUBE TELECOM, LLC**

Level 3 Communications, LLC (“Level 3”) hereby responds to the Data Request and Requests for Admissions (“Data Requests” or “Requests”) of Hypercube Telecom, LLC (“Hypercube”).

GENERAL OBJECTIONS

Level 3 makes the following objections to all of the Data Requests:

A. Level 3 objects to the Definitions and to the purported Instructions in Hypercube’s Requests to the extent that they contain definitions and instructions inconsistent with applicable rules and law.

B. Level 3 objects to each and all of these Requests to the extent that the data they request is privileged or protected from disclosure by the attorney-client privilege, attorney work product doctrine, trade secret, or any other privilege, immunity or grounds that protect information from disclosure, including protection of materials prepared in

anticipation of or preparation for litigation. Any inadvertent disclosure of such information is not a waiver of such privilege or protection.

C. Level 3 objects to each and all of these Requests to the extent that the data they request is private or confidential information or trade secrets of Level 3.

D. Level 3 objects to each and all of these Requests on the grounds that the documents and information requested are not relevant to the issues between Hypercube and Level 3 under Hypercube's complaint in this proceeding or reasonably calculated to lead to the discovery of admissible evidence, or the burden, expense, or intrusiveness of that discovery clearly outweighs the likelihood that the information sought will lead to the discovery of admissible evidence.

E. Level 3 objects to each and all of these Requests to the extent that the data or documents they request is not in the possession, custody or control of Level 3, and to the extent that they seek information or documents which are already in the possession or control of Hypercube or are as equally available to Hypercube as they are to Level 3.

DATA REQUESTS

1. Identify each person responding to, providing information for, or assisting in the preparation of responses to these Data Requests on behalf of Level 3.

RESPONSE: Responses were prepared by counsel, with information provided by staff of Level 3.

2. Please admit that there is no relevant distinction between Level 3's "Toll Free Inter-Exchange Delivery Service" that Level 3 offers or provides to interexchange carriers (or "IXCs") and Hypercube's toll-free origination service.

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Without waiver of these objections, Level 3 denies this Request.

3. If you provide anything other than an unqualified admission to the prior Request, describe in detail any and all relevant distinctions and explain the legal significance of those distinctions.

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Level 3 further objects that this Request seeks legal analysis and opinions which are improper subjects for discovery and to which Level 3 is not required to respond. Without waiver of its objections, Level 3 states that a direct technical comparison has not been done, and so Level 3 cannot respond as to the differences in equipment or circuits which may exist. Information about Level 3's service is contained in Level 3's tariffs, which Hypercube has demonstrated that it already has in its possession. In the compensation context, there is a distinction between Hypercube's service and Level 3's service, in that Hypercube kicks back a portion of the access charges it receives to CMRS carriers and Level 3 does not do so. Level 3 also does not buy traffic from wireless carriers for the purpose of generating redundant access charges. Unlike Hypercube, Level 3 is not an Inserted CLEC which pays kickbacks to wireless carriers in exchange for which the wireless carriers needlessly divert toll-free wireless traffic to the Inserted CLEC, instead of sending that traffic directly, whether through an ILEC or otherwise. The Inserted CLEC funds its

kickbacks by levying originating access charges to IXCs that can be more than five times higher than those paid under normal routing arrangements: routing arrangements that would be chosen if the wireless carrier were actually paying for this transit service. Level 3 charges lawful rates for the functions it provides and does not act as a proxy for wireless carriers to collect access charges to which wireless carriers are not entitled.

4. Please admit that Level 3 has contracts with wireless carriers related to Level 3's "Toll Free Inter-Exchange Delivery Service."

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

5. Please admit that Level 3 pays wireless carriers related to Level 3's "Toll Free Inter-Exchange Delivery Service."

RESPONSE: Level 3 objects to this Request on the grounds that it is vague, ambiguous and unintelligible. In addition, to the extent that Level 3 understands the Request, it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, Level 3 incorporates its response to Request No. 3 of this set.

6. Please admit that wireless carriers have directly sent Level 3 8YY traffic related to Level 3's "Toll Free Inter-Exchange Delivery Service."

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor

reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, Level 3 incorporates its response to Request No. 3 of this set.

7. Describe Level 3's "Toll Free Inter-Exchange Delivery Service," including the typical path of 8YY traffic from a wireless carrier to an IXC, and Level 3's role in the call transport.

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, Level 3 states that this service is described and diagrammed in Level 3's tariffs, which Hypercube already has in its possession and which are otherwise publicly available.

8. Describe the charges and/or rate(s) Level 3 recovers for its services and from whom Level 3 recovers those charges in connection with Level 3's "Toll Free Inter-Exchange Delivery Service."

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, Level 3 states that this service is described and diagrammed in Level 3's tariffs, which Hypercube already has in its possession and which are otherwise publicly available.

9. Does Level 3's "Toll Free Inter-Exchange Delivery Service" benefit the wireless carriers that use it? If so, how? If not, why not?

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Without waiver of these objections, Level 3's service is described in its tariffs which Hypercube has in its possession or which are otherwise available to Hypercube.

10. Does Level 3's "Toll Free Inter-Exchange Delivery Service" benefit the IXCs to which Level 3 transports 8YY traffic? If so, how? If not, why not?

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

11. Describe any other services, in addition to Level 3's "Toll Free Inter-Exchange Delivery Service," that Level 3 offers to wireless carriers whether pursuant to tariff, contract, or any other agreement or understanding.

RESPONSE: Level 3 objects to this Request on the grounds that it is vague and ambiguous and seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, Level 3 states that a list of the products which Level 3 provides can be found at www.Level3.com.

12. Please admit that when Level 3 provides its "Toll Free Inter-Exchange Delivery Service," Level 3 is an "Inserted CLEC" as that term is used in the document styled "Petition for a Declaratory Ruling" that Level 3 filed with the FCC on May 12, 2009.

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, Level 3 denies this Request.

13. If you provide anything other than an unqualified admission to the prior Request, explain in detail why, when Level 3 provides its “Toll Free Inter-Exchange Delivery Service,” Level 3 is not an “Inserted CLEC.”

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, Level 3 incorporates its response to Request No. 3 of this set.

14. Has Level 3 sought direct interconnection with any wireless carriers in California? If so, which carriers, when was interconnection sought, and what was the outcome of such efforts at interconnection?

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

15. Has Level 3 asked any wireless carrier to utilize a third-party carrier, other than Hypercube, to carry 8YY traffic from the wireless carrier’s Mobile Telecommunications Switching Office (“MTSO”) to Level 3’s switch(es) in California?

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

16. At the August 11, 2008 hearing in this proceeding, Greg Rogers stated: “I think just to acknowledge, you know, the Hypercube comments in discussion of Level 3’s tariff pages, fundamentally what Level 3 would say is that there is a proper way to tariff and charge for 8YY traffic and there’s an improper way.” State all facts and set forth all bases upon which you rely in asserting that Level 3 has tariffed its “Toll Free Inter-Exchange Delivery Service” the “proper way.”

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, Level 3 states that Level 3 has implemented a service to perform 8YY database queries and to then route 8YY calls to their proper IXC destinations. However, unlike Hypercube, Level 3: (A) only bills for the actual switched access rate elements functions it performs and does not act as a proxy for the originating carriers by billing full originating access for these calls; (B) Level 3 does not engage in kickback schemes with originating CMRS carriers that utilize Level 3’s 8YY routing services; (C) the rates that Level 3 tariffs and charges to IXCs for the switched access services it provides mirror ILEC rates in the state where the function is performed.

17. State all facts and set forth all bases upon which you rely in asserting that Hypercube has tariffed its toll-free origination service the “improper way.”

RESPONSE: See Level 3 Answer and Affirmative Defenses and Level 3’s Response and Opposition to Hypercube’s Motion to Require Escrow, etc. which contain this information.

18. State all facts and set forth all bases upon which you rely in asserting that there is a legally or regulatorily relevant distinction between the “proper way” and the “improper way.”

RESPONSE: Level 3 objects that this Request seeks legal analysis and opinions which are improper subjects for discovery and to which Level 3 is not required to respond. Without waiver of its objections, Level 3 incorporates its response to the previous Request.

19. Define the term “kickback” and phrase “kick back” as used in your Answer. (*See generally* Ans. 3, ¶¶ 1, 3, 4, 10).

RESPONSE: Kickback is a noun and kick back is a verb. Both terms refer to an arrangement Hypercube has established with CMRS providers under which Hypercube improperly bills and collects access charges from IXCs and pays to CMRS providers a portion of the access charges which Hypercube receives for inserting itself into CMRS provider originated 8YY traffic.

20. State all facts and set forth all bases upon which you rely in asserting that Hypercube has “engaged in paying kickbacks to originating CMRS providers.” (Ans. ¶ 1).

RESPONSE: Level 3 learned that Hypercube was making such payments when CMRS providers began to request that Level 3 pay kickbacks and Level 3 began to analyze in detail Hypercube’s invoices. In addition, Hypercube has admitted making such payments in the course of litigation and regulatory filings.

21. Does Level 3 have revenue sharing agreements with, or pay a marketing fee to, any carriers? If so, describe those relationships in detail.

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, Level 3 states that it does not have such agreements or pay such fees to CMRS carriers which originate 8YY traffic.

22. Does Level 3 have revenue sharing agreements with, or pay a marketing fee to, any of its customers? If so, describe those relationships in detail.

RESPONSE: Level 3 objects to this Request on the grounds that it is overbroad and ambiguous, and seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, Level 3 states that it does not have such agreements or pay such fees to CMRS carriers which originate 8YY traffic.

23. Does Level 3 have revenue sharing agreements with, or pay a marketing fee to, any of its end users? If so, describe those relationships in detail.

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

24. Level 3 claims it “has offset overpaid amounts against current bills until the overpaid amount is recouped.” (Ans. ¶ 5; *see also* Ans. ¶ 33). Please identify when Level 3 began to calculate this “offset” and why it chose that date.

RESPONSE: It was approximately January, 2008, when Level 3 discovered that the bills being rendered by Hypercube were incorrect and it began a dispute of charges for a period preceding such discovery.

25. Identify when Level 3 expects that its “offset” will be complete and Level 3 will pay any undisputed charges of Hypercube.

RESPONSE: Level 3 objects to this Request because it is vague and ambiguous. Without waiver of its objections, Level 3 states that Hypercube has billed Level 3 both interstate and intrastate switched access charges that Level 3 believes to be improper. Level 3 continues to audit and analyze all of Hypercube’s invoices. After engaging in this regulatory litigation in California, Level 3’s analysis has resulted in a finding that Hypercube did not have a basis in its tariffs as written to charge Level 3 for the switched access functions it may actually have performed until January 1, 2009. Notwithstanding these objections and clarifications, Level 3 states that it believes that it will have off-set overpayments of prior improper charges of amounts exceeding applicable ILEC rates for applicable comparable intrastate switched access functions in California by no later than October, 2009. Level 3 will make such payments as it makes under protest and will continue to demand a full refund of all payments made to Hypercube that did not have a legally valid tariff in place to support them and/or for which Hypercube pays unlawful kickbacks of access charges to wireless providers.

26. Provide detailed documentation of how Level 3 has calculated this “offset” from the time it began imposing that offset to the date of your response to these Data Requests.

RESPONSE: Level 3 objects that Hypercube already has this information in the form of its billings and Level 3’s payments. Level 3 also incorporates its response to the preceding Request by reference.

27. Provide all summaries, analyses, studies, or other documents relating to Hypercube's traffic that were prepared or created by Level 3 or at Level 3's direction.

RESPONSE: Level 3 objects that this question is vague, ambiguous, and overbroad, and requests the production of documents subject to attorney-client privilege or which are attorney work product. Without waiver of its objections, Level 3 incorporates its response to Request No. 25 of this set.

28. Provide all summaries, analyses, studies, or other documents relating to Hypercube's invoices that were prepared or created by Level 3 or at Level 3's direction.

RESPONSE: Level 3 objects that this Request is vague, ambiguous, and overbroad, and requests the production of documents subject to attorney-client privilege or which are attorney work product. Without waiver of its objections, Level 3 incorporates its response to Request No. 25 of this set.

29. On June 1, 2009, Level 3 filed a document styled a Reply with the FCC. On page 13, footnote 38 of that Reply, Level 3 claims "[s]ubject to traffic flows, Level 3 expects it will have redeemed the overcharges and will begin remitting payments in October 2009." Does Level 3 still claim that it will begin remitting payments to Hypercube in October 2009? If your answer to the question is negative, when does Level 3 expect to begin remitting payments to Hypercube?

RESPONSE: Level 3 incorporates its response to Request No. 25 of this set.

30. Please admit that Level 3 purchased TelCove, Inc. in 2006.

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor

reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, Level 3 states that an affiliate of Level 3 purchased Telcove, Inc. in 2006.

31. Please admit that TelCove offered toll-free origination services substantially similar to Hypercube's toll-free origination service.

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Without waiver of this objection, Level 3 states that at one time TelCove acquired parts of Hypercube's predecessor KMC, and Hypercube therefore has knowledge which Level 3 does not currently possess of what TelCove provided.

32. Please admit that TelCove paid, or offered to pay, a fee to wireless carriers for access to the wireless carriers' networks.

RESPONSE: Same objection and response as to the preceding Request.

33. Describe TelCove's past and current toll-free origination services, including whether TelCove pays a fee to wireless carriers and whether TelCove has contracts with wireless carriers for 8YY traffic.

RESPONSE: Same objection and response as to Request No. 31 of this set.

34. Please admit that Level 3 lobbied for a blended rate for tariffed switched access charges before the California Public Utilities Commission in Rulemaking 03-08-018.

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. In addition, Level

3 objects such information as may exist is equally available to Hypercube from the CPUC. Without waiver of its objections, Level 3 states that it used the term “blended rate” to mean a rate whereby CLECs would be allowed to use access rates elements that represented a combination of a variety of differing ILEC access rate elements throughout the state. Level 3 did not use the term “blended rate” to mean a rate that included multiple access rate elements in a single rate element in the way that Hypercube has employed that term and that practice.

35. Produce all documents filed by Level 3 with the California Public Utilities Commission in Rulemaking 03-08-018.

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. In addition, Level 3 objects as this information is equally available to Hypercube on the website of the CPUC.

36. Describe in detail the process by which Level 3 receives invoices for access charges and processes them for payment, including how, if at all, it analyzes or determines whether the rates charged in such invoices are consistent with applicable law, the governing tariff or contract, or any other document in which the prevailing rate(s) is(are) identified.

RESPONSE: Level 3 objects to this Request on the grounds that it is vague, ambiguous and overbroad, and seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Level 3 further objects that this Request seeks legal analysis and

opinions which are improper subjects for discovery and to which Level 3 is not required to respond. Without waiver of its objections, Level 3 states that generally invoices are received from vendors and would-be vendors through either an electronic or manual process and are loaded into the invoice processing system. The application used by Level 3 to review and process invoices for payment is widely used in the telecom industry. The BillTrakPro application utilizes system audits in addition to special audits performed by analysts outside the system. The audits are based on tariffs and/or comparisons of the bill to planned costs. Audits look at MOU volume in addition to tariffed rates and compare the billed detail to Level 3 network data and planned costs. The planned costs are calculated by using the ILEC rates for the three common switching elements. Most disputes are calculated by taking the difference between the billed costs/rate and the planned cost rates, and others may involve additional factors, such as legal and regulatory issues.

37. Identify and describe the role of each person with knowledge or information relating to Level 3's analysis, processing, payment and/or dispute of Hypercube's invoices to Level 3.

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Level 3 further objects that this Request seeks legal analysis and opinions which are improper subjects for discovery and to which Level 3 is not required to respond.

38. State all facts and set forth all bases upon which you rely in asserting in your Counterclaim that "Hypercube has sought to charge Level 3 for tandem access and

transport at rates exceeding those rates of the incumbent local exchange carriers for those same services” (Level 3 Countercl. ¶ 6), and for each such rate that you claim exceed(ed) such incumbent local exchange carrier (or “ILEC”) rate(s), identify and/or explain the following:

- a. the Hypercube rate and corresponding service at issue;
- b. whether you contend the rate was excessive at its inception or later became excessive, and if the latter scenario, what caused the rate to become allegedly excessive;
- c. the particular invoice(s), with reference to either the date and/or number of the invoice, in which Hypercube billed you at the allegedly excessive rate for such service;
- d. what you claim the applicable rate was for each identified service at the time, and when that rate became the applicable rate;
- e. whether you paid that invoiced rate, and, if payment was made, when such payment was made;
- f. when you determined that such invoiced charge and/or payment was allegedly made in error;
- g. who was involved in making that determination on Level 3’s behalf and what the role of each such person was;
- h. when and under what circumstances you brought such belief or position to Hypercube’s attention, including identifying the date, mode (i.e., oral or written), author and recipient of such communication(s); and

- i. why you claim that that/those rate(s) identified in your answer to subpart (d) should have been the rate(s) charged, including identifying any particular rule, order or decision of the California Public Utility Commission, or tariff of any other carrier on which you rely in forming that opinion.

RESPONSE: Level 3 objects that this Request seeks legal analysis and opinions which are improper subjects for discovery and to which Level 3 is not required to respond. Without waiver of its objections, Level 3 states that information requested here which is not subject to its objections is contained in Hypercube's tariffs and in the various filings which Level 3 has made in this matter, which Hypercube already has in its possession.

39. State all facts and set forth all bases upon which you rely in asserting in your Counterclaim that "Hypercube's charges to Level 3 under its 2006-9 Tariff are for services which Hypercube did not provide during the period when that tariff was purportedly in effect, and did not contain a rate for the services for which Hypercube charged Level 3 and obtained payment from Level 3" (Level 3 Countercl. ¶ 19), and for each such rate that you claim was inapplicable, identify and/or explain the following:

- a. the Hypercube rate and corresponding service at issue;
- b. the particular invoice(s), with reference to either the date and/or number of the invoice, in which Hypercube billed you at the allegedly inapplicable rate for such service;
- c. whether you paid that invoiced rate, and, if payment was made, when such payment was made;

- d. when you determined that such invoiced charge and/or payment was allegedly made in error;
- e. who was involved in making that determination on Level 3's behalf and what the role of each such person was;
- f. when and under what circumstances you brought such belief or position to Hypercube's attention, including identifying the date, mode (i.e., oral or written), author and recipient of such communication(s); and
- g. why you claim that that/those rate(s) identified in your answer to subpart (a) should not have been charged, including identifying any particular rule, order or decision of the California Public Utility Commission, or tariff of any other carrier on which you rely in forming that opinion.

RESPONSE: Level 3 objects that this Request seeks legal analysis and opinions which are improper subjects for discovery and to which Level 3 is not required to respond. Without waiver of its objections, Level 3 states that information requested here which is not subject to its objections is contained in Hypercube's tariffs and the various filings which Level 3 has made in this matter, which Hypercube already has in its possession.

40. State all facts and set forth all bases upon which you rely in asserting in your Counterclaim that "Hypercube has, upon information and belief, negotiated contracts for intrastate switched access services at lower prices than it has in its tariffs" (Level 3 Countercl. ¶ 22). Include who Level 3 believes Hypercube has entered such contracts with, and what the rate or price terms in those contracts are.

RESPONSE: This information is within the control of Hypercube and those parties with which Hypercube has negotiated such agreements, and for that reason Level 3 is seeking those agreements in discovery. Level 3 is however aware that Qwest settled with Hypercube in an undisclosed agreement which probably contains such terms. In addition, based on Hypercube's responses to discovery to date, it is clear that Hypercube has not brought claims against a number of other interexchange carriers, including major carriers, and Level 3 believes that at least some of those carriers may have entered such agreements with Hypercube.

41. State all facts and set forth all bases upon which you rely in asserting in your Counterclaim that "Hypercube has failed and refused to provide comparable rates to Level 3" (Level 3 Countercl. ¶ 23). Include what rate for what service that Level 3 sought from Hypercube that Hypercube refused to provide Level 3.

RESPONSE: Same response as to preceding Request. In addition, in settlement negotiations with Level 3, it became clear from statements by Hypercube and context that others were being offered lower rates. By letter of June 10, 2008, Level 3 requested that Hypercube provide Level 3 with copies of agreements containing pricing below alleged tariffed rates charged to Level 3; Level 3 specified the carriers whose rate agreement it was requesting. To date, Hypercube has not responded to that letter, and without those agreements, Level 3 does not possess the information necessary to respond.

42. Please admit that John Ryan, an employee with dual business and legal responsibilities at Level 3, stated at a meeting with Hypercube in October 2007 in Broomfield, Colorado that Level 3 began not paying Hypercube in response to Hypercube winning business away from Level 3.

RESPONSE: Hypercube has sought to disclose the substance of confidential settlement discussions, which are not admissible in evidence in any event. Therefore, this Request is improper and Level 3 objects on that basis. Without waiver of its objections, Level 3 denies this Request. Mr. Ryan is Assistant Chief Legal Officer for Level 3 and serves as an attorney for Level 3. It is thus unclear what is intended by the statement that Mr. Ryan has “dual business and legal responsibilities at Level 3.” Level 3 disputes the characterization of the statement allegedly made by Mr. Ryan, and affirmatively states that the meeting with Hypercube in October 2007 was for the express purpose of attempting to settle the dispute between Hypercube and Level 3. Level 3 believes that it is improper to inquire into settlement discussions in discovery. However, if at some point, despite this objection, there is a ruling that settlement discussions are relevant to the case and admissible as proofs, Level 3 will fully discuss the statements by representatives of both parties in those discussions. At this point, it is sufficient to point out that Hypercube’s question is entirely improper.

43. Please admit that Level 3’s Chief Executive Officer, James Q. Crowe, attended the October 2007 meeting referenced in the prior Request.

RESPONSE: Level 3 admits that Mr. Crowe attended this settlement discussion.

44. Please admit that William Hunt, an employee of Level 3, stated at a meeting at the FCC on May 21, 2009 that Level 3 began not paying Hypercube in response to Hypercube winning business away from Level 3.

RESPONSE: Hypercube has sought to disclose the substance of confidential settlement discussions, which are not admissible in evidence in any event. Therefore, this

Request is improper and Level 3 objects on that basis. Without waiver of its objections, Level 3 denies this Request.

45. Please admit that Level 3 knows the identity of the “key customer” referenced in the September 16, 2009 Communications Daily.

RESPONSE: Denied. Level 3 suspects that the customer is CMRS carrier MetroPCS, but Hypercube in its responses to Level 3’s discovery has refused to confirm that it has an agreement with MetroPCS under which Hypercube kicks back access charges to MetroPCS.

46. Identify all other carriers, customers or other persons or entities with whom Level 3 currently has a billing or other financial dispute in which Level 3 is not paying what the carrier, customer or other person or entity claims is owed it by Level 3, or is paying slower than originally agreed or obligated to, or is paying less than what is claimed owed. Identify for each dispute the amount at issue, and the length of time the dispute has been ongoing.

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

47. Identify every complaint or other adjudicatory proceeding before a state regulatory agency, including public utility regulatory agencies that Level 3 has initiated or to which it has responded within the past four years that involved or concerned a billing dispute between Level 3 and any other party. For each such state proceeding, provide the following information:

- a. The full names of all parties;

- b. The name and state of the state regulatory agency;
- c. The docket, case or proceeding number;
- d. The date on which the proceeding was initiated;
- e. Amounts in dispute; and
- f. A copy of any interim, recommended, or final decision in the proceeding.

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

48. Provide a list of every matter filed and/or litigated before a state or federal court or an arbitrator that Level 3 has initiated or in which it was or is a defendant within the past four years that involved or concerned a billing dispute between Level 3 and any other party. For each such litigation or arbitration matter, provide the following information:

- a. The full names of all parties;
- b. The state and court or arbitral forum in which the litigated matter was filed and is/was pending;
- c. The docket or case number;
- d. The date on which the litigation matter was initiated;
- e. Amounts in dispute; and
- f. A copy of any interim, recommended, or final decision in the matter.

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

49. With respect to the cases and proceedings identified in response to the previous two Requests, please:

- a. State which of these cases Level 3 has resolved by settlement or compromise;
- b. State whether a written settlement or compromise agreement was signed;
- c. State whether each such settlement or compromise requires Level 3 to provide services at rates other than those which Level 3 has tariffed; and
- d. State whether each such settlement or compromise agreement was filed with the California Public Utilities Commission.

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

50. Provide detailed documentation that supports Level 3's contention that it has sufficient cash or cash equivalents to satisfy any judgment obtained by Hypercube in this proceeding.

RESPONSE: See Level 3's responses to Hypercube's escrow motions and documents attached to Hypercube's motions and Level 3's responses. See also Level 3's most recent 10-Q filed with the Securities and Exchange Commission.

51. Has Level 3 entered into direct connection agreements with one or more IXCs under which Level 3 delivers traffic to those IXCs?

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

52. Has Level 3 filed any of the direct connection agreements referred to in the preceding Request with the California Public Utilities Commission?

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

53. If your answer to the preceding Request is affirmative, please provide the date and Level 3 advice letter number under which each such direct connection agreement was filed and a copy of the actual filing which Level 3 made with the California Public Utilities Commission. If your answer to the preceding Request is negative, explain in details your reasons for not filing such agreement(s) with the California Public Utilities Commission.

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

54. State whether you contend that a wireless carrier is obligated to send 8YY traffic to an ILEC, and if you so contend, under what circumstances such obligation exists. If you answer affirmatively, in whole or in part, state all facts and set forth all bases upon which you rely in answering affirmatively.

RESPONSE: Level 3 objects that this Request seeks legal analysis and opinions which are improper subjects for discovery and to which Level 3 is not required to respond.

55. State whether you contend that a wireless carrier is obligated to carry 8YY traffic beyond the end of its network, and if you so contend, under what circumstances

such obligation exists. If you answer affirmatively, in whole or in part, state all facts and set forth all bases upon which you rely in answering affirmatively.

RESPONSE: Level 3 objects that this Request seeks legal analysis and opinions which are improper subjects for discovery and to which Level 3 is not required to respond.

56. State whether you contend that a wireless carrier is obligated to incur the charges related to handling and identifying the destination network for an 8YY call, and if you so contend, under what circumstances such obligation exists. If you answer affirmatively, in whole or in part, state all facts and set forth all bases upon which you rely in answering affirmatively.

RESPONSE: Level 3 objects that this Request seeks legal analysis and opinions which are improper subjects for discovery and to which Level 3 is not required to respond.

57. State whether you contend that Level 3 has a legal right to direct a wireless carrier to carry 8YY traffic beyond the confines of its network, and if you so contend, under what circumstances such obligation exists. If you answer affirmatively, in whole or in part, state all facts and set forth all bases upon which you rely in answering affirmatively.

RESPONSE: Level 3 objects that this Request seeks legal analysis and opinions which are improper subjects for discovery and to which Level 3 is not required to respond.

58. State whether you contend that Level 3 has a legal right to direct a wireless carrier to send 8YY traffic destined for Level 3 to a carrier other than

Hypercube, and if you so contend, under what circumstances such obligation exists. If you answer affirmatively, in whole or in part, state all facts and set forth all bases upon which you rely in answering affirmatively.

RESPONSE: Level 3 objects that this Request seeks legal analysis and opinions which are improper subjects for discovery and to which Level 3 is not required to respond.

59. Explain in detail how a wireless carrier that wishes to utilize Hypercube's network for routing 8YY traffic could identify 8YY traffic destined for Level 3 and route it to a carrier other than Hypercube.

RESPONSE: A wireless carrier can perform a query against the SMS800 database and route calls with a Level 3 Carrier Identification Code to Level 3, as they apparently do for other traffic which they send to Level 3 without sending it through Hypercube.

60. Is it technically feasible for a wireless carrier that wishes to utilize Hypercube's network for routing 8YY traffic to identify 8YY traffic destined for Level 3 and route it to a carrier other than Hypercube?

RESPONSE: See response to preceding Request.

61. Does Level 3 have the capability of performing an SMS/800 query for 8YY traffic originating on its network?

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, Level 3 has such capability.

62. Is Level 3 a so-called “RESPORG,” which is shorthand for “Responsible Organization,” for Level 3’s 8YY traffic?

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, Level 3 is a RESPORG for its own 8YY traffic.

63. Describe in detail Level 3’s efforts to comply with Hypercube’s disconnection procedures in Hypercube’s tariff.

RESPONSE: Level 3 has requested that Hypercube cease sending CMRS-originated 8YY traffic to Level 3, which Hypercube has refused to do.

64. Does Level 3 deliver all 8YY traffic generated by its end user customers to the responsible IXC? If your answer to the question is negative, identify all carriers that Level 3 uses to deliver its 8YY traffic to the responsible IXC.

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, Level 3 states that it delivers 8YY traffic properly consistent with network engineering and efficiency. Level 3 operates a complex, highly engineered network and uses automated least cost effective routing to choose among routing choices for a particular call. Level 3 uses the incumbent LECs in California as tandem providers for these purposes.

65. Does Level 3 currently use third-party 8YY providers, such as Hypercube, to carry 8YY traffic from Level 3's network? If so, state which providers, and state whether such services are provided pursuant to contract or tariff.

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Level 3 also denies the premise of the question, as Hypercube is not a third-party 8YY provider.

66. Has Level 3 used third-party 8YY providers, such as Hypercube, in the past to carry 8YY traffic from Level 3's network? If so, state which providers, and state whether such services were provided pursuant to contract or tariff.

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Level 3 also denies the premise of the question, as Hypercube is not a third-party 8YY provider. Without waiver of these objections, Level 3 receives CMRS-originated 8YY traffic which Hypercube routes to Level 3 through ILEC tandems, despite the fact that Level 3 has demanded that Hypercube cease sending that traffic to Level 3.

67. Under what circumstances would Level 3 engage a third-party (not Level 3 itself or an ILEC) for processing 8YY calls prior to delivery to the IXC?

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Level 3 further objects to this Request because it is vague and unintelligible, and calls for speculation.

68. Does Level 3 presently send Hypercube any 8YY traffic?

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, Level 3 states that it is seeking to determine whether any incidental traffic may still be passing from Level 3 to Hypercube, and intends to seek to eliminate that traffic if Level 3 determines that there is any such traffic.

69. Has Level 3 sent Hypercube any 8YY traffic in the past?

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, Level 3 states that it has done so in the past.

70. If you answered either of the prior two questions affirmatively, explain why Level 3 sends or sent that 8YY traffic to Hypercube and not to the ILEC or another carrier.

RESPONSE: Same objections as to Request No. 67 of this set.

71. Please admit that Level 3 currently sends Hypercube originating 8YY traffic.

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, Level 3 states that it is seeking to determine whether any incidental traffic

may still be passing from Level 3 to Hypercube, and intends to seek to eliminate that traffic if Level 3 determines that there is any such traffic.

72. Please admit that Level 3 has sent Hypercube originating 8YY traffic in the past.

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, Level 3 incorporates its response to Request No. 69 of this set.

73. Does Level 3 pay for any 8YY traffic via agreements with the carrier whose end user makes an 8YY call? If so, identify the other party(ies) to and material terms of such agreement(s).

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

74. Does Level 3 promise its 8YY subscribers that any in-service North American numbering plan telephone number will be able to reach the properly provisioned 8YY number supplied by Level 3?

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

75. If your answer to the prior question is negative, describe all limits on in-service North American numbering plan telephone number ability to reach the properly

provisioned 8YY number supplied by Level 3 and produce all documents describing those limitations.

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

76. Provide a summary of the monthly revenue Level 3 receives from its retail 8YY service from January 2002 to the present.

RESPONSE: Level 3 objects to this Request on the grounds that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence and is highly confidential. This question is obviously posed only to harass Level 3 and is improper.

77. Has Level 3 informed any of its customers that it is not paying Hypercube? If your answer to the question is negative, does Level 3 plan to inform any of its customers that it is not paying Hypercube?

RESPONSE: Level 3 has not taken any official action intended to notify its customers of its dispute with Hypercube. However, Level 3 assumes that some of its customers have seen one or more of the press releases issued by Hypercube regarding this matter.

78. State all facts and set forth all bases upon which you rely in asserting that “Hypercube’s tariff purports to require blocking by Level 3 if Level 3 does not agree to receive these calls. Due to requirements of California law, Level 3 understands this to mean that Level 3 must request from Hypercube that Hypercube cease delivering traffic.” (Ans. ¶ 37, n.5).

RESPONSE: Level 3 objects because the language of Hypercube's tariff is equally available to Hypercube.

79. State all facts and set forth all bases upon which you rely in asserting that Hypercube is required to perform the work necessary to identify 8YY calls to Level 3 and then refuse to complete those calls without any compensation.

RESPONSE: Level 3 objects because the language of Hypercube's tariff is equally available to Hypercube. Without waiver of its objections, Level 3 states that the only manner in which Level 3 can avoid having these calls routed to it is if Hypercube performs this function, and Hypercube's tariff indicates that the option of not accepting this traffic is an option available to the recipient.

80. Does Level 3 want Hypercube to block 8YY traffic destined for Level 3?

RESPONSE: Level 3 wants Hypercube to abide by its tariff, and to stop sending undesired traffic to Level 3, because the blocking contemplated by Hypercube's tariff is not feasible, but Level 3 does not want to receive such traffic from Hypercube. Level 3 does not intend to "block" any traffic as a result of this request. Hypercube can abide by Level 3's request and refuse to accept 8YY traffic destined for Level 3 from CMRS providers and inform them that routes to Level 3 are not available to them through Hypercube. When Hypercube abides by Level 3's request, the carriers that are currently sending their 8YY traffic through Hypercube can simply go back to their ordinary routes for such traffic or find other routes.

81. If you answered the prior question affirmatively, will Level 3 compensate Hypercube for the work it performs in identifying 8YY traffic destined for Level 3 (*i.e.* transport from the wireless carrier's MTSO, call switching, database queries, and release

of the traffic)? Further, will Level 3 agree to indemnify and hold Hypercube harmless for any suits, claims or other demands or proceedings arising out of such blocking by Hypercube at Level 3's request?

RESPONSE: Level 3 objects that this question consists of legal argument and requests a legal opinion or position from Level 3, which is an improper subject for discovery and to which Level 3 is not required to respond.

82. Has Level 3 explored any options to avoid using Hypercube's services? If so, describe the options and Level 3's efforts with regard to those options.

RESPONSE: Level 3 objects that this question is vague and overbroad. Without waiver of its objections, Level 3 denies that it "uses" Hypercube's "services" for CMRS-originated 8YY services, and wishes Hypercube to abide by its tariffs and cease sending this traffic to Level 3.

83. Identify each person Level 3 expects to call as a fact witness at any hearing on Hypercube's escrow motion or at the hearing on the merits, and summarize the expected testimony of each such person.

RESPONSE: Witnesses have not yet been determined.

84. For each witness identified in response to the preceding Request, provide the current resume, including name, address, education, training, experience, work history, publications authored or co-authored, and prior experience as a witness; copies of written testimony and transcripts of oral testimony in other proceedings; the subject matter of the witness's expected testimony in this matter and a brief summary thereof.

RESPONSE: Witnesses have not yet been determined.