

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of an Investigation into the)
Quality of Wireline Telecommunications) **File No. TO-2011-0047**
Services in the State of Missouri)

MOTION FOR PROTECTIVE ORDER

COMES NOW Level 3 Communications, LLC (“Level 3”) (hereinafter referred to as “Level 3”), by and through counsel, and files its *Motion for Protective Order* in this case pursuant to 4 CSR 240-2.135 (5). In support of this Motion, Level 3 states as follows:

1. Level 3, along with all other local exchange telecommunications service providers certificated to provide service in Missouri, was directed by the Commission to answer a series of questions in this matter no later than November 1, 2010. *Order Opening an Investigation into the Quality of Wireline Telecommunications Services in Missouri*, issued and effective September 1, 2010.
2. Level 3 has prepared answers to the Commission's inquiries, pursuant to the September 1 *Order*. Considerable effort by numerous personnel of Level 3 has been exerted to gather the information requested by the Commission in this matter. However, the data requested by the Commission is competitively sensitive and could be used by competitors of Level 3 to their competitive advantage or to Level 3's competitive disadvantage.
3. While the Commission's rules, at 4 CSR 240-2.135, provide for information filed with the Commission to be classified as "Highly Confidential," data so classified may still be seen by counsel for

competitors of Level 3 and experts employed by such competitors. The risk of inadvertent disclosure to others (including employees of competitors) also exists.

4. 4 CSR 240-2.135 (5) states: “If a party believes that information must be protected from disclosure more rigorously than would be provided by a highly confidential designation, it may file a motion explaining what information must be protected, the harm to the disclosing entity or the public that might result from disclosure of the information, and an explanation of how the information may be disclosed to the parties that require the information while protecting the interests of the disclosing entity and the public.”
5. Filing the information requested by the Commission could cause harm to Level 3 through possible disclosure to competitors, or to those advising them, of competitively sensitive information such as company-specific provisioning intervals (from placement of order to provisioning of service), mean time to repair (from receipt of customer trouble report to repair), the volume of service problems reported to Level 3, the specific preventative maintenance procedures employed by Level 3 and company-specific budgeting information.
6. The information requested by the Commission could be used by competitors to learn methods of improving their own business practices in competition with Level 3 or by using comparisons of data in the competitor's marketing efforts. In either case, data required by the

Commission in this investigative docket could be used for competitive purposes to the detriment of Level 3 or the unfair advantage of its competitors.

7. Level 3 proposes to provide the information requested by the Commission in this investigatory docket directly and only to the Commission Staff and to the Office of the Public Counsel, rather than filing it via EFIS in the case file of this matter. In this fashion, Level 3's responses would be protected from public disclosure by Section 386.480, RSMo. This procedure would give the Commission access to all the requested data so that it can be evaluated and analyzed as part of the Commission's investigation, without exposing that data to possible disclosure to competitors, their counsel or advisors. This method will allow disclosure of the information to the only parties that require the information while protecting the interests of Level 3 in the confidentiality of the information, per 4 CSR 240-2.135 (5). The interests of the public will also be protected by the Commission's analysis and use of the protected information in its investigation in this docket, for the benefit of the public, without risking the possibility of the information being disclosed or used by any company to gain an unfair competitive advantage.
8. The instant docket is not a contested case, and no legitimate interest will be harmed by the level of confidential treatment sought by Level 3 in this *Motion*.

WHEREFORE, Level 3 Communications, LLC, respectfully requests that the Missouri Public Service Commission issue a *Protective Order* that permits Level 3 to submit its confidential responses in this matter directly, and only, to the Staff of the Commission and to the Office of the Public Counsel.

Respectfully submitted,

/s/ William D. Steinmeier

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COUNSEL FOR LEVEL 3
COMMUNICATIONS, LLC

CERTIFICATE OF SERVICE

I hereby certify that the undersigned has caused a complete copy of the attached document to be electronically filed and served on the Commission's Office of General Counsel (at gencounsel@psc.mo.gov), the Office of Public Counsel (at opcservice@ded.mo.gov), and counsel of record, on this 29th day of October 2010.

/s/ William D. Steinmeier

William D. Steinmeier