



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF THE VERIFIED PETITION OF)
LEVEL 3 COMMUNICATIONS, LLC FOR APPROVAL) ORDER
TO PARTICIPATE IN A FINANCING ARRANGEMENT)
(08/20)) DOCKET NO. TF20080540

Parties of Record:

Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel
Sue Benedek, Esq. CenturyLink
Colleen A. Foley, Esq., Saul Ewing Arnstein and Lehr LLP, on behalf of Level 3 Communications,

BY THE BOARD:

On or about August 26, 2020, Level 3 Communications, LLC (“Level 3 LLC” or “Petitioner”), filed a petition pursuant to N.J.S.A. 48:3-7 and N.J.S.A. 48:3-9 requesting approval from the New Jersey Board of Public Utilities (“Board”) to participate in a financing arrangement in connection with the issuance of \$840 million aggregate principal amount of 3.625% Senior Notes due 2029 (the “Senior Notes”) by its parent company, Level 3 Financing, Inc. (“Financing”), for the intended purpose of permitting Financing to redeem \$840 million aggregate principal amount of other debt. Petitioner stated that this request is a refinancing, in part, of transactions previously approved by the Board in 2015.¹

Specifically, Petitioner requested approval to act as guarantor for the Senior Notes upon receipt of the required regulatory approvals, including from the Board. Additionally, Level 3 LLC has issued an intercompany demand note (the “Intercompany Demand Note”) to Financing as part of this financing. Level 3 LLC states that this action is consistent with prior financing arrangements previously approved by the Board.² Petitioner requested approval to permit the

Intercompany Demand Note used in exchange for the proceeds of the Senior Notes to remain unpaid for more than 12 months from the date of issuance.

¹ Specifically, the 5.625% Senior Notes due 2023 were issued in January of 2015. The Board approved this financing pursuant to an Order issued in the following matter: In The Matter of the Verified Petition of Level 3 Communications, LLC For Approval to Participate in a Financing Arrangement, BPU Docket No. TF15020239, Order (dated Apr. 15, 2015).

² See e.g., New Jersey Board of Public Utilities, Order, Docket No. TF17111187, at 3 (Jan. 31, 2018).

BACKGROUND:

Level 3 LLC is a wholly-owned subsidiary of Financing, which in turn is a subsidiary of Level 3 Parent, LLC (“Level 3 Parent”). Level 3 Parent is a Delaware limited liability company with principal offices located at 1025 Eldorado Boulevard, Broomfield, CO 80021, and is an indirect, wholly-owned subsidiary of CenturyLink, Inc.

Level 3 LLC is a non-dominant carrier that is authorized to provide resold and/or facilities-based telecommunications services nationwide pursuant to certifications, registrations or tariff requirements, or on a deregulated basis. Level 3 LLC is also authorized by the Federal Communications Commission to provide international and domestic interstate services as a non-dominant carrier. In New Jersey, Level 3 LLC is authorized to provide resold and facilities-based local exchange and interexchange telecommunications services throughout the State pursuant to the Board’s Order of Approval issued on October 20, 1998 in BPU Docket No. TE97120913.

Additional information concerning the Petitioner’s legal, technical, managerial and financial qualifications has been submitted to the Board with various, and numerous, prior submissions with respect to the Petitioner’s certifications and several prior transactions and, therefore, is a matter of public record. The Board therefore takes official notice of these descriptions of Petitioner’s qualifications and incorporates them herein by reference.

DISCUSSION:

Petitioner requests Board approval to participate in a new financing arrangement (the “financing arrangement”) as addressed and described in greater detail in the Petition. Financing has issued \$840 million aggregate principal amount of its Senior Notes in a private offering that was not registered under the Securities Act of 1933. Concurrently with the issuance of the Senior Notes, Financing has lent funds equal to the \$840 million proceeds of the Senior Notes to Level 3 LLC in return for the Intercompany Demand Note. Petitioner states that the Intercompany Demand Note is in substantially the same form as the notes utilized for financing arrangements previously approved by the Board.³

Upon receipt of the requisite regulatory approvals pursuant to N.J.S.A. 48:3-7 and any other laws or regulations deemed applicable, Petitioner requests approval from the Board to act as guarantor of the Senior Notes, and for its equity and other assets to be pledged in support of the Senior Notes. Petitioner states that its guaranty obligations in support of the Senior Notes will not be effective until all required regulatory approvals are received, including approval from the Board.

Petitioner also requests authority from the Board, to the extent required, for the issuance of the Intercompany Demand Note to Financing pursuant to N.J.S.A. 48:3-9. Petitioner states that the

Intercompany Demand Note is payable on demand, and since it is neither indebtedness “payable later than 12 months after the date of the original instrument,” nor expressly payable within 12 months, the applicability of N.J.S.A. 48:3-9 is unclear. Petitioner states that, in an abundance of caution, it seeks Board approval pursuant to N.J.S.A. 48:3-9 in the event the

³ See Petition, at 4.

Intercompany Demand Note were to remain unpaid for more than 12 months from the date of issuance.

According to the Petitioner, participation in the new financing arrangement will not result in a change in its management or in its day-to-day operations in New Jersey, nor will it adversely affect the Petitioner's current or proposed operations in New Jersey. The Petitioner also asserts that the financing arrangement will have no impact on its ability to fulfill its pension obligations, as required pursuant to N.J.S.A. 48:3-7.⁴

Petitioner states that the financing arrangement will enable Financing and Level 3 Parent to take advantage of lower interest rates and more favorable maturity terms, thereby significantly reducing interest expenses. According to the Petition, the financing arrangement will provide Petitioner with the financial flexibility to maintain and expand its networks and services. Petitioner further asserts that the financing arrangement will enable it to continue delivering services to new markets, thus allowing more consumers to benefit from its competitive services.

Petitioner also states that the financing arrangement will be conducted in a manner that will be transparent to customers and will not result in a change of carrier for customers or any assignment of authorizations, and in no event will it result in the discontinuance, reduction, loss, or impairment of service to customers. Following completion of the financing arrangement, Petitioner asserts it will continue to provide high-quality communications services to its customers without interruption and without immediate change in rates, terms, or conditions.

The Division of Rate Counsel ("Rate Counsel") has reviewed this matter and, by letter dated September 21, 2020, stated that it does not oppose the Board's grant of the petitioned requests. Rate Counsel has recommended, however, that the Board require Petitioner to certify that the proposed financing transaction will not adversely affect or reduce New Jersey employee's existing rights in any pension/retirement benefit plan currently offered by Petitioner.

FINDINGS AND CONCLUSIONS:

After careful review of this matter, the Board **FINDS** that the proposed financing arrangement is consistent with applicable law. As to the requirement recommended by Rate Counsel, the Board notes that Petitioner has certified in its Petition as to its ability to fulfill its existing pension obligations, consistent with N.J.S.A. 48:3-7. To the extent Rate Counsel's recommendation seeks to impose an additional requirement, not set forth in N.J.S.A. 48:3-7, the Board declines to impose it in this matter. Accordingly, the Board **HEREBY AUTHORIZES** Petitioner to participate in the financing arrangement as described herein and in the Petition.

This Order is issued subject to the following provisions:

1. This Order shall not affect or in any way limit the exercise of the authority of the Board or the State of New Jersey in any future petition or in any proceeding regarding rates, costs of service, franchises, service, financing, accounting, capitalization, depreciation or any other matters affecting the Petitioner.

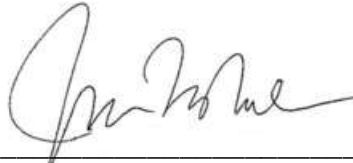
⁴ See Petition at 4.

2. Petitioner shall notify the Board, within five business days, of any material changes in the proposed financing arrangement and shall provide complete details of such changes including any anticipated effects upon service in New Jersey.
3. Petitioner shall notify the Board of any material default in the terms of the proposed financing within five business days of such occurrence.
4. Notwithstanding anything to the contrary in the documents executed pursuant to the financing arrangement or other supporting documents, a default or assignment under such agreement does not constitute an automatic transfer of Petitioner's assets. Board approval must be sought pursuant to N.J.S.A. 48:1-1 et seq. where applicable.
5. This Order shall not be construed as directly or indirectly fixing for any purpose whatsoever any value of tangible or intangible assets now owned or hereafter to be owned by the Petitioner.

This Order shall become effective on October 24, 2020.

DATED: October 14, 2020

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER



UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST:



AIDA CAMACHO-WELCH
SECRETARY

IN THE MATTER OF THE VERIFIED PETITION OF LEVEL 3 COMMUNICATIONS, LLC FOR
APPROVAL TO PARTICIPATE IN A FINANCING ARRANGEMENT (08/20)
DOCKET NO. TF20080540

SERVICE LIST

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