



0000125056

BEFORE THE ARIZONA CORPORATION COMMISSION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

GARY PIERCE
Chairman
BOB STUMP
Commissioner
SANDRA D. KENNEDY
Commissioner
PAUL NEWMAN
Commissioner
BRENDA BURNS
Commissioner

Arizona Corporation Commission

DOCKETED

MAY - 4 2011

DOCKETED BY	<i>mn</i>
-------------	-----------

IN THE MATTER OF THE APPLICATION)
OF LEVEL 3 COMMUNICATIONS, LLC)
FOR APPROVAL OF A LIMITED WAIVER)
OF THE PUBLIC UTILITY HOLDING)
COMPANIES AND AFFILIATED)
INTEREST RULES (A.A.C. R.-14-2-801 ET)
SEQ.)

DOCKET NO. T-03654A-11-0106

DECISION NO. 72300

ORDER

Open Meeting
April 27 and 28, 2011
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. Level 3 Communications, LLC ("Level 3 LLC") filed an application, with the Arizona Corporation Commission ("Commission") on March 9, 2011, requesting a limited waiver of the Public Utility Holding Companies and Affiliated Interests Rules, Arizona Administrative Code ("A.A.C.") R14-2-801 to R14-2-806, to participate in a refinancing arrangement pursuant to A.A.C. R14-2-806.

2. In the alternative, Level 3 requested approval under A.A.C. R14-2-804(B)(1) to provide the guarantee required to participate in the refinancing.

3. The financing arrangement replaces an existing financing arrangement, pursuant to substantially similar terms and conditions coupled with a favorable interest rate and extended maturity date to 2019.

...

1 4. Level 3 Financing, Inc. (“Level 3 Financing” or “Issuer”), a subsidiary of Level 3
2 Communications, Inc. and the direct parent of Level 3 LLC, proposes to issue \$500 million in
3 9.375 percent Senior Notes¹ due to qualified institutional buyers in a private offering that is
4 exempt from registration under U.S. Federal securities laws.

5 5. The Issuer will lend the net proceeds it receives in the offering of the notes to its
6 subsidiary, Level 3 LLC.

7 Background

8 6. Level 3 Financing is a Delaware corporation with principal offices located at 1025
9 Eldorado Boulevard, Broomfield, Colorado 80021 and is a wholly owned subsidiary of Level 3
10 Communications, Inc., a Delaware corporation. Level 3 Financing is the direct parent of Level 3
11 LLC, and other subsidiaries, and is not a certificated telecommunications service provider in
12 Arizona or elsewhere.

13 7. Level 3 LLC, a wholly owned subsidiary of Level 3 Financing is a Delaware
14 Limited Liability Company headquartered in Broomfield, Colorado. Level 3 LLC’s customers are
15 primarily other carriers, voice over the internet (“VoIP”) providers and internet service providers
16 (“ISPs”). Level 3 LLC is authorized by the Commission to provide facilities-based and resold
17 local exchange, toll and access services pursuant to Decision No. 61737 issued by the Commission
18 in Docket No. T-03654A-98-0641 on June 4, 1999.

19 The Transaction

20 8. Level 3 Financing proposes to issue \$500 million in Senior Notes and lend the net
21 proceeds it receives along with additional cash on hand to Level 3 LLC in return for an
22 intercompany demand note issued by Level 3 LLC in the amount of \$500 million. The funds will
23 be used to purchase previously issued notes that were issued at the rate of 10 percent and are due
24 in 2018. Level 3 LLC will also provide a guarantee of the Issuer’s 9.375 percent Senior Notes due
25 ...

26 _____
27 ¹ Senior debt, frequently issued in the form of Senior Notes, is debt that takes priority over other unsecured debt owed
28 by the issuer. Senior debt has greater seniority in the issuer's capital structure than subordinated debt. In the event the
issuer goes bankrupt, senior debt theoretically must be repaid before other creditors receive any payment. Senior debt
is often secured by collateral on which the lender has put in place a first lien.

1 2019. Level 3 LLC seeks approval from the Commission for this indebtedness and the guarantee
2 of the notes issued by Level 3 Financing.

3 9. Level 3 LLC states in its application that participation in the financing arrangement
4 as a guarantor will not result in a change in Level 3 LLC's management or in its day-to-day
5 operations in Arizona nor will it adversely affect Level 3 LLC's operations in Arizona. In
6 addition, Level 3 LLC states that the proposed transaction will not directly or indirectly result in an
7 increase of maximum rates in Level 3 LLC's tariffs.

8 Staff's Analysis

9 10. In its application, Level 3 LLC states that "The financing arrangement (the
10 proposed transaction) will enable Level 3 LLC to bring services to new markets and allow more
11 consumers to benefit from its competitive services." Level 3 LLC application states that the
12 financing arrangement for which it seeks approval from the Commission is intended to bolster its
13 ability to compete and succeed across all of its markets and with all of its product offerings.

14 11. Level 3 LLC states in its application that it will not be encumbering any assets as
15 part of the financing transaction. Therefore, to the extent that Level 3 LLC holds any customer
16 deposits or prepayments, those funds should not be pledged as part of the transaction.

17 12. On March 18, 2011, Level 3 LLC provided Staff with an affidavit of publication
18 verifying public notice of its financing application. Level 3 LLC published notice of its financing
19 application in The Arizona Republic on March 14, 2011. The affidavit of publication was filed
20 with the Commission's Docket Control on March 18, 2011.

21 13. On March 21, 2011, the Consumer Services Section of the Commission reported
22 that Level 3 LLC is in Good Standing.

23 14. A.A.C. R14-2-804(B)-1 requires that a utility will not consummate a financial
24 interest in any affiliate not regulated by the Commission, or guarantee, or assume the liabilities of
25 such affiliate without prior approval by the Commission. Staff concludes that a pledge of Level 3
26 LLC's assets would not impair the availability of service to customers since Level 3 LLC provides
27 competitive services that are available from alternative service providers.

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

IT IS FURTHER ORDERED that Level 3 Communications, LLC is authorized to engage in any transactions and to execute any documents necessary to effectuate the authorizations granted as discussed herein.

IT IS FURTHER ORDERED that the application of Level 3 Communications, LLC is subject to the condition that all customer deposits and prepayments be excluded from this transaction.

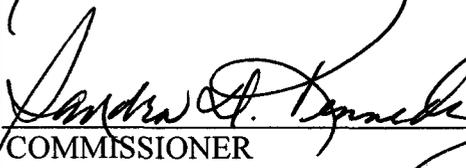
IT IS FURTHER ORDERED that copies of executed security documents shall be filed with the Compliance Section within 90 days of the decision in this matter.

IT IS FURTHER ORDERED that this Decision shall be become effective immediately.

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION


CHAIRMAN


COMMISSIONER


COMMISSIONER


COMMISSIONER


COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this 4th day of MAY, 2011.


ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT: _____

DISSENT: _____

SMO:AFF:sms/MS

1 SERVICE LIST FOR: Level 3 Communications, LLC
2 DOCKET NO. T-03654A-11-0106

3 Mr. Michael W. Patten
4 Mr. Timothy J. Sabo
Roshka DeWulf & Patten
5 One Arizona Center
400 East Van Buren Street, Suite 800
6 Phoenix, Arizona 85004

7 Ms. Catherine Wang
8 Ms. Danielle C. Burt
Bingham McCutchen LLP
9 2020 K Street, NW
10 Washington, DC 20006

11 Mr. Richard E. Thayer
Senior Counsel
12 Level 3 Communications, LLC
1025 Eldorado Boulevard
13 Broomfield, Colorado 80021

14 Mr. Steven M. Olea
15 Director, Utilities Division
Arizona Corporation Commission
16 1200 West Washington Street
Phoenix, Arizona 85007

17
18 Ms. Janice M. Alward
Chief Counsel, Legal Division
19 Arizona Corporation Commission
1200 West Washington Street
20 Phoenix, Arizona 85007

21
22
23
24
25
26
27
28