



0000134683

BEFORE THE ARIZONA CORPORATION COMMISSION

1
 2 GARY PIERCE
 Chairman
 3 BOB STUMP
 Commissioner
 4 SANDRA D. KENNEDY
 Commissioner
 5 PAUL NEWMAN
 Commissioner
 6 BRENDA BURNS
 Commissioner
 7

Arizona Corporation Commission

DOCKETED

FEB 17 2012

DOCKETED BY	nr
-------------	----

8 IN THE MATTER OF THE JOINT
 APPLICATION OF LEVEL 3
 9 COMMUNICATIONS, LLC, GLOBAL
 CROSSING TELECOMMUNICATIONS,
 10 INC., GLOBAL CROSSING LOCAL
 SERVICES, INC., BROADWING
 11 COMMUNICATIONS, LLC AND
 12 WILLIAMS COMMUNICATIONS, LLC
 DBA WILTEL COMMUNICATIONS, LLC
 13 FOR APPROVAL OF A LIMITED WAIVER
 OF THE PUBLIC UTILITY HOLDING
 14 COMPANIES AND AFFILIATED
 INTEREST RULES (A.A.C. R14-2-801 ET
 15 SEQ.) OR, IN THE ALTERNATIVE,
 16 APPROVAL OF GUARANTEE UNDER
 A.A.C. R14-2-804; AND FOR
 17 AUTHORIZATION TO ENCUMBER
 18 AND/OR MORTGAGE THEIR ASSETS
 19

DOCKET NOS. T-03654A-11-0440
 T-02438B-11-0440
 T-03658A-11-0440
 T-04176A-11-0440
 T-03708A-11-0440

DECISION NO. 72889

ORDER

20 Open Meeting
 February 14 and 15, 2012
 21 Phoenix, Arizona

22 BY THE COMMISSION:

FINDINGS OF FACT

24 1. On December 7, 2011, Level 3 Communications, LLC ("Level 3 LLC") filed an
 25 application with the Arizona Corporation Commission ("Commission") to request a limited waiver
 26 of the Commission's Public Utility Holding Companies and Affiliated Interests Rules, Arizona
 27 Administrative Code ("A.A.C." R14-2-801 to R14-2-806 referred to as the "Affiliated Interests
 28 ...

1 Rules”), in connection with certain financing arrangements by Level 3 LLC’s affiliate Level 3
2 Financing, Inc. (“Level 3 Financing”) under which Level 3 LLC will provide a guarantee.

3 2. In the alternative, Level 3 LLC requests, to the extent necessary, approval under
4 A.A.C. R14-2-804 for Level 3 LLC to provide the guarantee for the new financing arrangements
5 of Level 3 Financing.

6 3. Additionally, Level 3 LLC, Broadwing Communications, LLC (“Broadwing”),
7 WilTel Communications, LLC (“WilTel”), Global Crossing Telecommunications, Inc. (“GC
8 Telecommunications”) and Global Crossing Local Services (“GC Local”) (with Level 3 LLC, the
9 “Applicants”) request an order from the Commission under Arizona Revised Statutes (“A.R.S.”) §
10 40-285 authorizing the pledge, mortgage, lien and/or encumbrance of the utility plant and assets of
11 the Applicants in connection with the Applicants participation in certain new financing
12 arrangements of Level 3 Financing.

13 4. At a procedural conference held January 5, 2012, the Applicants waived the 30 day
14 requirement under A.A.C. R14-2-806.

15 Background

16 5. Level 3 Communications, Inc. (“Level 3”) is a publicly-traded (NYSE: LVL3)
17 Delaware corporation with principal offices located at 1025 Eldorado Boulevard, Broomfield, CO
18 80021. The Applicants are wholly-owned subsidiaries of Level 3 and are authorized to provide
19 resold and/or facilities-based telecommunications services nationwide pursuant to certification,
20 registration or tariff requirements, or on a deregulated basis.

21 6. In Arizona, Level 3 LLC is authorized to provide facilities-based and resold local
22 exchange, toll and access services pursuant to a certificate of convenience and necessity (“CCN”)
23 granted in Decision No. 61737 (June 4, 1999).

24 7. Broadwing is authorized to provide resold and facilities-based local exchange and
25 interexchange service pursuant to a CCN granted in Decision No. 66105 (July 25, 2003).

26 8. WilTel is authorized to provide resold and facilities-based local exchange and
27 interexchange telecommunications services pursuant to a CCN granted in Decision No. 62025
28 (November 2, 1999).

1 9. GC Telecommunications is authorized to provide interexchange
2 telecommunications services pursuant to its CCN granted by Decision No. 54505 (April 29, 1985),
3 as expanded by Decision No. 60501(November 25, 1997).

4 10. GC Local is authorized to provide facilities-based local exchange
5 telecommunications services pursuant to its CCN granted by Decision No. 61622 (April 1, 1999).

6 The Applicants' Transaction

7 The Applicants in their application represent the following:

8 11. Level 3 Financing has entered into a \$550 million term loan with a maturity of up to
9 seven (7) years. Level 3 Financing has lent the net proceeds it received to its subsidiary, Level 3
10 LLC, in return for an intercompany demand note. The Applicants will pledge their assets and act
11 as guarantors in support of the \$550 million Term Loan.

12 12. The Applicants emphasize that their participation in the financing as guarantors will
13 not result in a change in their ownership or in their day-to-day operations. The proceeds from the
14 Term Loan will be used for working capital and for other permissible general corporate purposes.
15 The Applicants expect the financing to further enable the Applicants to bring services to new
16 markets and allow more consumers to benefit from their competitive services.

17 Staff's Analysis and Conclusions

18 13. Staff's review of the Applicants' 2010 Annual Reports, filed with the Commission
19 on April 15, 2011, indicates that the Level 3 LLC, WilTel and GC Telecommunications are Class
20 A utilities subject to the Commission's Public Utility Holding Companies and Affiliated Interests
21 Rules. Broadwing and GC Local are not Class A utilities based on their 2010 Annual Reports.

22 14. A.A.C. R14-2-804 requires that a utility will not consummate certain financial
23 transactions without prior approval of the Commission.¹ The rule serves to determine if
24 transactions would impair the financial status of the public utility, otherwise prevent it from
25 attracting capital at fair and reasonable terms, or impair the ability of the public utility to provide
26 safe, reasonable and adequate service. Based on its evaluation of the proposed transaction, Staff
27

28 ¹ Commission Review of Transactions Between Public Utilities and Affiliates

1 concludes that the transaction would not impair the financial status of the Applicants, would not
2 impair their ability to attract capital, nor would it impair the ability of the Applicants to provide
3 safe, reasonable, and adequate service.

4 15. A.R.S. § 40-285 requires public service corporations to obtain Commission
5 authorization to encumber certain utility assets. The statute serves to protect captive customers
6 from a utility's act to dispose of any of its assets that are necessary for the provision of service;
7 thus, it serves to preempt any service impairment due to disposal of assets essential for providing
8 service. A pledge of the Applicants' Arizona assets should not impair the availability of service to
9 customers since the Applicants provide competitive services that are available from alternative
10 service providers. Customers may still have exposure to losses to the extent they have prepaid for
11 service or made deposits. Any authorization for encumbrance should provide customer protection
12 for prepayments and deposits. Level 3 LLC has stated to Staff that the proposed financing will
13 specifically exclude Arizona customer deposits, advances and prepaid funds. Therefore, to the
14 extent that Level 3 LLC holds any Arizona customer deposits or prepayments, those funds should
15 not be pledged as part of the transaction.

16 16. On December 22, 2011, the Applicants filed with the Commission's Docket Control
17 an affidavit of publication verifying public notice of its proposed transaction. The Company
18 published notice of its application in *The Arizona Republic* on December 16, 2011.

19 17. Staff recommends that the application filed by Level 3 LLC, Broadwing, WilTel,
20 GC Telecommunications and GC Local seeking approval of certain financing arrangements with
21 approval to guarantee such financing arrangements and authorization to encumber their assets in
22 support of such financing arrangements be approved with the that all customer deposits and
23 prepayments be excluded from encumbrance and equivalent amounts be retained by the
24 Applicants. Staff further recommends that one copy of executed loan documents be filed by the
25 Applicants with the Director of the Utilities Division ("Director") and a letter be filed in Docket
26 Control confirming the filing of the executed loan documents with the Director, as a compliance
27 item in this docket, within 30 days following execution of such documents.

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

IT IS FURTHER ORDERED that copies of executed loan documents be filed by Level 3 Communications, LLC, Global Crossing Telecommunications, Inc., Global Crossing Local Services, Inc., Broadwing Communications, LLC and Williams Communications, LLC dba WilTel Communications, LLC with the Director of the Utilities Division ("Director") and a letter be filed in Docket Control confirming the filing of the executed loan documents with the Director, as a compliance item in this docket, within 30 days following execution of such documents.

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

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

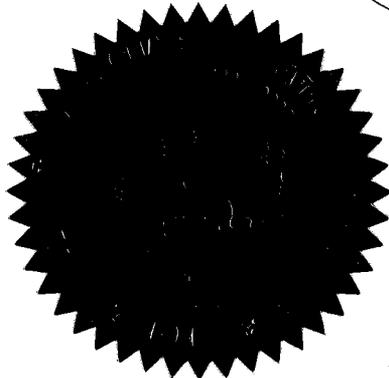
Gary L. Quinn
CHAIRMAN

[Signature]
COMMISSIONER

[Signature]
COMMISSIONER

[Signature]
COMMISSIONER

[Signature]
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 17th day of FEBRUARY, 2012.

[Signature]
ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT: _____

DISSENT: _____

SMO:AFF:lh\RM

1 SERVICE LIST FOR: Level 3 Communications, LLC, Global Crossing Telecommunications,
2 Inc., Global Crossing Local Services, Inc., Broadwing Communications,
3 LLC, WilTel Communications, LLC
4 DOCKET NOS. T-03654A-11-0440, T-02438B-11-0440, T-03658A-11-0440, T-04176A-
5 11-0440 and T-03708A-11-0440

5 Mr. Michael W. Patten
6 Mr. Timothy J. Sabo
7 Roshka DeWulf & Patten
8 One Arizona Center
9 400 East Van Buren Street, Suite 800
10 Phoenix, Arizona 85004

9 Ms. Catherine Wang
10 Ms. Danielle C. Burt
11 Mr. Jeffrey Strenkowski
12 Bingham McCutchen LLP
13 2020 K Street, N.W.
14 Washington, DC 20006

13 Mr. Richard E. Thayer
14 Senior Counsel
15 Level 3 Communications, LLC
16 1025 Eldorado Boulevard
17 Broomfield, Colorado 80021

16 Mr. Steven M. Olea
17 Director, Utilities Division
18 Arizona Corporation Commission
19 1200 West Washington Street
20 Phoenix, Arizona 85007

20 Ms. Janice M. Alward
21 Chief Counsel, Legal Division
22 Arizona Corporation Commission
23 1200 West Washington Street
24 Phoenix, Arizona 85007

25
26
27
28