



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF THE VERIFIED JOINT PETITION)
OF LEVEL 3 COMMUNICATIONS, INC., TOGETHER)
WITH CENTURYLINK, INC., FOR APPROVAL OF)
INDIRECT TRANSFER OF CONTROL OF: LEVEL 3)
COMMUNICATIONS, LLC, LEVEL 3 TELECOM OF)
NEW JERSEY, LP, BROADWING COMMUNICATIONS,)
LLC, GLOBAL CROSSING LOCAL SERVICES, INC.,)
GLOBAL CROSSING TELECOMMUNICATIONS, INC.,)
TELCOVE OPERATIONS, LLC, AND WILTEL)
COMMUNICATIONS, LLC TO CENTURYLINK, INC)
AND RELATED APPROVALS)

ORDER

DOCKET NO. TM16121159

Parties of Record:

- Dennis C. Linken, Esq.**, Scarinci & Hollenbeck, LLC, on behalf of Level 3 Communications, Inc.
- Collen A. Foley, Esq.**, Saul Ewing LLP, on behalf of CenturyLink
- Stefanie A. Brand, Esq.**, Director, New Jersey Division of Rate Counsel

BY THE BOARD:

On December 16, 2016, Level 3 Communications, Inc. ("Level 3") and CenturyLink, Inc. ("CenturyLink") (together "Joint Petitioners") submitted a verified joint petition ("petition") to the New Jersey Board of Public Utilities ("Board") pursuant to N.J.S.A. 48:2-51.1, N.J.S.A. 48:3-10, N.J.A.C. 14:1-5.14, and N.J.S.A. 48:3-7, as well as other applicable statutes and regulations, requesting approval of the indirect transfer of control of Level 3 Communications, LLC, Level 3 Telecom of New Jersey, LP, Broadwing Communications, LLC, Global Crossing Local Services, Inc., Global Crossing Telecommunications, Inc., TelCove Operations, LLC and WilTel Communications, LLC, (collectively, "Level 3 Companies") to CenturyLink (hereinafter the "transaction").¹ Upon closing, the Level 3 Companies will become wholly-owned indirect

¹ By way of a letter dated March 16, 2017, the Joint Petitioners amended the petition, stating that the terms of the financing arrangements did not necessitate the participation of CenturyLink Communications,

subsidiaries of CenturyLink, and will continue to offer the same services in New Jersey at the same rates, terms and conditions.

BACKGROUND

CenturyLink is a publicly traded Louisiana corporation with headquarters in Monroe, Louisiana. It provides communications services, including local and long-distance voice, wholesale local network access, high-speed internet, and fiber transport services through copper and fiber networks to consumers and businesses in 50 states. In New Jersey, CenturyLink is the parent of United Telephone Company of New Jersey, Inc. d/b/a CenturyLink ("United/CenturyLink"), operating as an incumbent local exchange company ("ILEC") in portions of northwest New Jersey; and CenturyLink Communications, LLC, operating as an interexchange carrier ("IXC") and competitive local exchange carrier ("CLEC") in New Jersey. CenturyLink itself does not offer services in New Jersey and is not certificated by the Board.

Level 3 is a publicly traded Delaware corporation with headquarters located in Broomfield, Colorado. According to the petition, Level 3 is a global telecommunications and information services company which, through its operating subsidiaries, offers a wide range of communications services over its broadband fiber-optic network, including IP-based services, broadband transport, collocation services, and patented Softswitch-based voice services. The Level 3 Companies provide services to enterprise, government and carrier customers, but they do not provide services to residential customers in New Jersey.

In New Jersey, there are seven Level 3 Companies authorized by the Board as CLECs and/or IXCs, including Level 3 Communications, LLC, Level 3 Telecom of New Jersey, LP, Broadwing Communications, LLC, Global Crossing Telecommunications, Inc., Global Crossing Local Services, Inc., Telcove Operations, LLC, and WiTel Communications, LLC. In New Jersey, these companies are authorized to provide local and/or interexchange telecommunications services pursuant to authority granted by the Board.²

LLC, a CenturyLink subsidiary and certificated entity in New Jersey, as a guarantor in the proposed merger transaction, and withdrawing its request for Board approval of that aspect of the transaction.

² Level 3 Communications, LLC was authorized by the Board to provide telecommunications service in New Jersey on October 20, 1998. See In the Matter of the Petition of Level 3 Communications, LLC, for Authority to Provide Switched and Dedicated, Resold and Facilities-Based Local Exchange and Interexchange Telecommunications Service Throughout New Jersey, Docket No. TE97120913 (October 20, 1998). Level 3 Telecom of New Jersey, LP (f/k/a tw telecom of new jersey, l.p., and previous to that, f/k/a Time Warner Telecom of New Jersey, L.P.) was authorized by the Board to provide telecommunications service in New Jersey on July 28, 1999. See In the Matter of the Application of Time Warner Telecom of New Jersey, L.P., for Authority to Provide Local Telecommunications Services Within the State of New Jersey, Docket No. TE98121438 (July 28, 1999). Broadwing Communications, LLC (f/k/a IXC Communications Services, Inc.), was authorized by the Board to provide telecommunications service in New Jersey on June 10, 1999. See In the Matter of the Application of IXC Communications Services, Inc., for Approval to Provide Facilities-Based Long Distance Services, Docket No. TE99030202 (June 10, 1999). Global Crossing Telecommunications, Inc. was authorized to provide services pursuant to authority originally granted to RCI Corporation, which subsequently operated as Frontier Communications International, Inc. on April 12, 1985. See In the Matter of the Petition of RCI Corp. for Approval of Initial Interlata Tariff, Docket No. TE85030250 (April 12, 1985). The Board approved the

DISCUSSION

The proposed transaction is a transfer to CenturyLink of an indirect 100% controlling ownership interest in the Level 3 Companies. To effectuate the merger, CenturyLink has created a direct subsidiary, Wildcat Holdco LLC, a Delaware limited liability company ("Holdco"), which in turn created two direct subsidiaries, Wildcat Merger Sub 1 LLC ("Merger Sub 1") and WWG Merger Sub LLC ("Merger Sub 2"). On October 31, 2016, CenturyLink entered into an Agreement and Plan of Merger (the "Merger Agreement") with Level 3, Wildcat Merger Sub 1 LLC, and WWG Merger Sub LLC providing, among other things, that: (i) Merger Sub 1 will merge with and into Level 3, with Level 3 surviving, and (ii) immediately thereafter, Level 3 will merge with and into Merger Sub 2, with Merger Sub 2 surviving. Following the combination, Merger Sub 2, the successor to Level 3, will be a direct wholly-owned subsidiary of Holdco, and Holdco will be a wholly-owned direct subsidiary of CenturyLink. Merger Sub 2 will survive as an indirect wholly-owned subsidiary of CenturyLink. As a result, the combined company will compete in the enterprise market.

The Joint Petitioners assert the transaction will enable them to combine their complementary fiber networks and offer customers of enterprise services a broader range of services than currently obtainable from the Joint Petitioners individually, reduce the combined company's dependence on leased fiber facilities, and strengthen the combined company's ability to invest and compete for the long-term. The Joint Petitioners aver that the transaction will result in a stronger competitor in the retail segment and allow the combined company to compete successfully for enterprise customers.

The Joint Petitioners also assert that the Level 3 Companies, as subsidiaries of CenturyLink, will continue to meet all of their contractual and regulatory obligations, therefore no adverse impacts will occur and the transaction will be seamless to customers as the transaction does not involve a change of control of the two New Jersey certificated affiliates of CenturyLink. Joint Petitioners contend the transaction will not impact the employees, services, rates or regulatory obligations of CenturyLink's New Jersey companies, and will also be seamless to United/CenturyLink's New Jersey customers.

transfer of the authority to Global Crossing Telecommunications, Inc. in the approval of an internal corporate reorganization. See In the Matter of the Verified Petition for Approval of Internal Corporate Reorganization and Transfer of Operating Authority of Global Crossing North American Networks, Inc. into Global Crossing Telecommunications, Inc. and Separately Global Crossing Telemanagement, into Global Crossing Local Services, Inc., Docket No. TM10060393 (September 16, 2010). Global Crossing Local Services, Inc. (f/k/a Frontier Local Services, Inc.) was authorized by the Board to provide telecommunications service on October 15, 1999. See In the Matter of the Petition of The Application of Frontier Local Services Inc., for Approval to Provide Local Exchange Services and Exchange Access Services throughout New Jersey, Docket No. TE99030204 (October 15, 1999). Telcove Operations, LLC was authorized by the Board to provide telecommunications service by the authority originally granted to Adelphia Business Solutions Investment, LLC, at Docket Nos. TM97110843, TE9705037, TM98101156 and TM00040275. Adelphia Business Solutions Investment, LLC changed its name to TelCove Investment, LLC and the Board transferred that authority to TelCove Operations, LLC on March 2, 2007 in Docket No. TM06120889 as part of an internal corporate reorganization. WilTel Communications, LLC, (f/k/a Williams Communications, Inc. d/b/a Vvix, Inc.) was authorized to provide telecommunications service by the Board on January 14, 1999. See In the Matter of the Petition of Williams Communications, Inc. D/B/A VVIX, Inc. to Provide Interexchange Telecommunications Service, Docket No. TE98080699 (January 14, 1999).

Following petition submission, discovery commenced by the Staff of the Board ("Staff") and Division of Rate Counsel ("Rate Counsel"). Joint Petitioners provided written responses to discovery requests on the impact of the proposed transaction.

Rate Counsel submitted comments to the Board on April 20, 2017, recommending approval of the transaction with certain specified conditions. Rate Counsel argued that the Joint Petitioners' focus on serving large enterprise customers potentially jeopardized the quality and variety of services offered to residential and small business customers. Rate Counsel recommended approval of the transaction along with several conditions, including: (a) accelerated improvement and expansion of United/CenturyLink's residential broadband infrastructure and deployment plans; (b) improvement of broadband speeds; (c) provision of additional information to permit monitoring of broadband adoption; (d) continued competition and deployment of business data services ("BDS") in Verizon's service territory; and (e) service quality, pension and employment assurances. As to competition, Rate Counsel argued approval of the transaction would eliminate an actual competitor in the BDS service territory, and, as competition in the BDS market affects the rates, terms and conditions of specialized private line circuits upon which other carriers, large users, and wireless carriers rely, the Board should ensure that effective competition exists. Rate Counsel sought clarification from CenturyLink that it would continue to compete in BDS markets indefinitely or, alternatively, for a minimum 5-year period.

On May 22, 2017, the Joint Petitioners replied to Rate Counsel comments, arguing that affirmative benefits will flow to customers, and that the recommended conditions were not necessary because the proposed conditions would regulate products outside of Board jurisdiction, including broadband deployment, speeds, and pricing. The Joint Petitioners argued: (a) the proposed Transaction will result in a stronger combined company with an improved ability to compete in the enterprise market; (b) that the Board's existing service quality regulations are fully capable of ensuring continuing service quality to all customers; (c) that the combined company had no reason to eliminate jobs where doing so would degrade service or network quality; (d) that the Transaction will not affect employee pension benefits or ability to use a 401(k) plan; and (e) that Rate Counsel's conditions result in regulation of products outside the jurisdiction of the Board.

Rate Counsel submitted reply comments on June 2, 2017, reiterating its recommended conditions but arguing that its recommended conditions are necessary where positive benefits did not necessarily flow to New Jersey consumers.

The Joint Petitioners responded to the reply comments by letter dated June 14, 2017, asserting that the proposed conditions exceeded conditions ordered by the Board in similar prior telecommunications mergers and were onerous and unnecessary.

After multiple meetings and extensive negotiations, a Stipulation of Settlement ("Stipulation")³ dated August 7, 2017 was entered into by the Joint Petitioners, Staff and Rate Counsel (collectively, the "Parties"), resolving all issues in this proceeding. By the Stipulation, the parties agreed Joint Petitioners would continue to compete in BDS markets for a minimum period of

³ Although described in this Order at some length, should there be any conflict between this summary and the Stipulation, the terms of the Stipulation control, subject to the findings and conclusions in this Order.

three years from the effective date of this Order. CenturyLink agreed to notify Staff and Rate Counsel of any net loss of customer-facing jobs in New Jersey greater than fifteen percent within ten days of such an event. CenturyLink agreed to abide by its obligations to its existing employees as outlined in their applicable pension plan documents. Joint Petitioners provided assurances that all employees will continue to have access to a 401(k) plan. United/CenturyLink acknowledged the continuation of its safe, adequate and reliable service compliance obligations, including its Plan for Alternative Regulation ("PAR") approved by Board Order.⁴ United/CenturyLink further agreed to several retail broadband commitments, the continuation of its DSL utilization monitoring processes, and annual public benefits filings. Based upon the Stipulation and the Board's independent review of the record in this matter, as well as consideration of the applicable statutes and regulations cited above, the Board **ACCEPTS** the Stipulation as filed with the Board.

FINDINGS AND CONCLUSIONS

In considering a request for Board approval, the Board shall evaluate the impact of such an acquisition on competition, on the rates of ratepayers affected by the acquisition of control, on the employees of the affected public utility or utilities, and on the provision of safe and adequate utility service at just and reasonable rates. N.J.S.A. 48:2-51.1. The Board must be satisfied that positive benefits will flow to customers and the State of New Jersey and, at a minimum, that there are no adverse impacts on any of the four criteria delineated in N.J.S.A. 48:2-51.1. N.J.A.C. 14:1-5.14(c). Also, pursuant to N.J.S.A. 48:3-7 and N.J.S.A. 48:3-10, the Board must determine whether the public utility, or a wholly-owned subsidiary thereof, may be unable to fulfill its pension obligations to any of its employees.

Regarding the rate impact, based upon the Stipulation and the Board's independent review of the record in this matter, the Board concludes that there will be no negative impact on rates or service quality as a result of the Transaction.

The stipulated benefits include enhanced service quality reporting, detailed broadband provisions, DSL utilization monitoring provisions and an annual report of the public benefits stemming from the transaction. Positive benefits inure to both customers and the State of New Jersey and are a direct result of approval of this transaction.

Regarding employees, the stipulation requires CenturyLink report to the Board if there is a net loss of employees greater than fifteen percent within ten days of such event. The Board is persuaded that the Joint Petitioners will endeavor to minimize any potential adverse impact to employees in New Jersey. Similarly, the Board is satisfied that the Joint Petitioners will fulfill their obligations to employees with regard to employee pensions and access to 401(k) accounts.

⁴ See Orders, In the Matter of the Board Investigation Regarding the Reclassification of Incumbent Local Exchange Carrier (ILEC) Services as Competitive and In the Matter of the Application of United Telephone Company of New Jersey, Inc. d/b/a Embarq for Approval of a Plan for Alternative Regulation, Docket Nos. TX07110873 and TO08060451.

On the impact on competition, the benefits include the creation of a financially stronger competitor in the enterprise market, with an enhanced ability to compete against large competitors in the BDS market. New Jersey customers will benefit from the proposed transaction because CenturyLink's acquisition of Level 3 will expand CenturyLink's fiber network to better serve existing customers with greater bandwidth, enhanced security, and better customer service. In addition, the Joint Petitioners' express agreement to continue to compete in the BDS market throughout New Jersey will maintain competition in New Jersey for these services, thereby benefitting customers for those services. By the stipulated terms, New Jersey consumers will benefit from the transaction, and are not harmed by a lack of competition.

In addition to the positive benefits articulated in the Stipulation, the Company has committed to develop an engineering plan to extend its facilities deeper into the network to provide broadband services in the Hope, Blairstown and Columbia exchanges. These improvements will be completed no later than year-end 2018.

As part of CenturyLink's infrastructure commitments compliance with the Federal Communications Commission ("FCC") Connect America Fund Phase 2 Program ("CAF Phase 2 Program") governing build out of facilities to provide broadband internet access services in communities served by the Company, CenturyLink will endeavor to maximize the number of locations that will benefit including locations outside of CAF II eligible areas.

The Company has further designated a liaison for community outreach and education on its broadband service availability commitments under the Bona Fide Retail Request (BFRR) program, its discounted broadband funding commitments for schools and libraries under the federal E-rate program, and all other programs available to communities.

The Board is, therefore, satisfied that positive benefits will flow to consumers and that the transaction will strengthen the Joint Petitioners' competitive posture in the telecommunications market place due to their increased financial position and access to additional resources. The Stipulation resolves all issues raised in the proceeding.

After careful review of this matter, the Board **FINDS** that the proposed transaction is consistent with applicable law, is not contrary to the public interest, has a likelihood of creating positive benefits, and will have no material impact on the rates of current customers. The Board also **FINDS** the transaction will have no material adverse impact on the provision of safe, adequate and proper service, and is likely to provide benefits to customers given the terms of the Stipulation. The Board also **FINDS** the transaction will have no material impact on the employees, or their pensions, of the Joint Petitioners. The Board further **FINDS** that the transaction will have no material adverse impact on competition, and is likely to provide benefits to customers as a result of the terms of the Stipulation. Therefore, after investigation, having considered the record and exhibits submitted in this proceeding, the Board **HEREBY ORDERS** that the Joint Petitioners are authorized to proceed with the proposed Transaction.

This Order is subject to the following:

- 1) This Order shall not affect or in any way limit the exercise of the authority of the Board, the Office of Cable Television and Telecommunications or the State of

new Jersey in any future petition or in any proceeding regarding service, financing, accounting, capitalization, depreciation or any other matters affecting the Joint Petitioners.

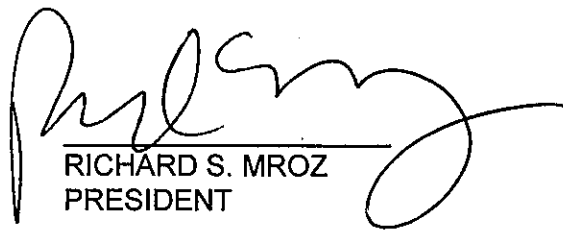
- 2) This Order shall not be construed as directly or indirectly fixing, for any purpose whatsoever, any value of tangible or intangible assets now owned or hereinafter to be owned by the Joint Petitioners:
- 3) Consummation of the Transaction must take place no later than one-hundred-eighty (180) days from the effective date of this Order unless otherwise extended by the Board.

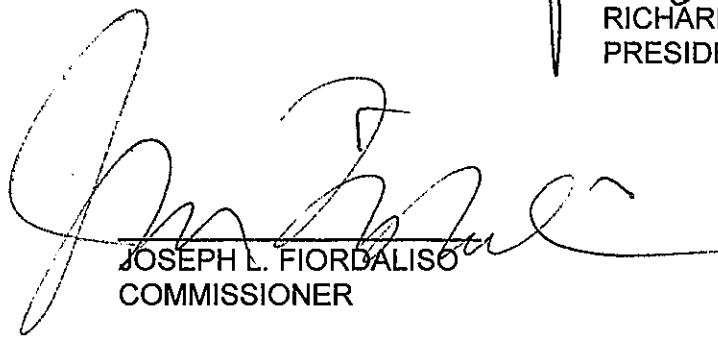
The conditions set forth by the Stipulation and in this Order are binding and enforceable by the Board.

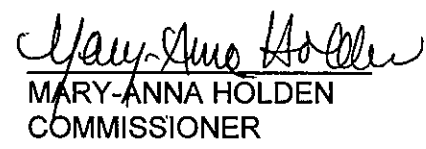
This Order shall be effective September 2, 2017.

DATED: 8/23/17

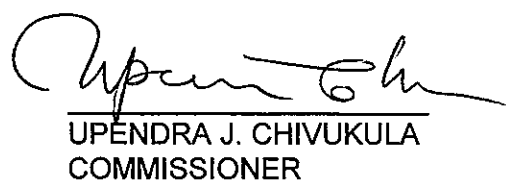
BOARD OF PUBLIC UTILITIES
BY:

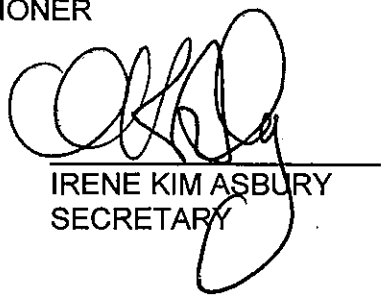

RICHARD S. MROZ
PRESIDENT

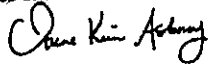

JOSEPH L. FIORDALISO
COMMISSIONER


MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
COMMISSIONER


UPENDRA J. CHIVUKULA
COMMISSIONER

ATTEST: 
IRENE KIM ASBURY
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities


**IN THE MATTER OF THE VERIFIED JOINT PETITION OF LEVEL 3 COMMUNICATIONS, INC., TOGETHER WITH CENTURYLINK, INC., FOR APPROVAL OF INDIRECT TRANSFER OF CONTROL OF: LEVEL 3 COMMUNICATIONS, LLC, LEVEL 3 TELECOM OF NEW JERSEY, LP, BROADWING COMMUNICATIONS, LLC, GLOBAL CROSSING LOCAL SERVICES, INC., GLOBAL CROSSING TELECOMMUNICATIONS, INC., TELCOVE OPERATIONS, LLC, AND WITEL COMMUNICATIONS, LLC TO CENTURYLINK, LINK, INC. AND RELATED APPROVALS
DOCKET NO. TM16121159**

SERVICE LIST

Dennis C. Linken, Esq.
1100 Valley Brook Avenue
Post Office Box 790
Lyndhurst, NJ 07071
dlinken@scarincihollenbeck.com

Colleen A. Foley
Saul Ewing, LLP
One Riverfront Plaza, 5th Floor
Newark, NJ 07102
cfoley@saul.com

Danielle Burt, Esq.
Catherine Wang, Esq.
Morgan, Lewis & Bockius, LLP
2020 K Street, N.W., Suite 1100
Washington, DC 20006
danielle.burt@morganlewis.com
catherine.wang@morganlewis.com

Carolyn Ridley
Senior Director of State Public Policy
Level 3 Communications
2078 Quail Run Drive
Bowling Green, KY 42104
carolyn.ridley@level3.com

Sue Benedek, Esq.
CenturyLink
240 North Third Street, Suite 300
Harrisburg, PA 17101
sue.benedek@centurylink.com

Irene Kim Asbury, Esq.
Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, NJ 08625-0350
Irene.asbury@bpu.nj.gov

Carol Artale, Legal Specialist
Counsel's Office
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, NJ 08625-0350
carol.artale@bpu.nj.gov

Lawanda R. Gilbert, Director
Office of Cable Television and
Telecommunications
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, NJ 08625-0350
Lawanda.gilbert@bpu.nj.gov

Harold Bond, Chief
Office of Cable Television and
Telecommunications
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, NJ 08625-0350
Harold.bond@bpu.nj.gov

Susan M. Baldwin
Post Office Box 392
Newburyport, MA 01950
smbaldwinconsulting@gmail.com

Stefanie A. Brand, Esq., Director
Division of Rate Counsel
140 East Front Street, 4th Floor
Post Office Box 003
Trenton, NJ 08625-0003
sbrand@rpa.state.nj.us

Maria Novas-Ruiz, Esq.
Division of Rate Counsel
140 East Front Street, 4th Floor
Post Office Box 003
Trenton, NJ 08625
mnovas-ruiz@rpa.state.nj.us

Caroline Vachier, Esq.
Department of Law & Public Safety
Division of Law
124 Halsey Street
Post Office Box 45029
Newark, NJ 07101-45029
caroline.vachier@law.njoag.gov

Veronica Beke, Esq.
Department of Law & Public Safety
Division of Law
124 Halsey Street
Post Office Box 45029
Newark, NJ 07101-45029
veronica.beke@law.njoag.gov

Renee Greenberg, Esq.
Department of Law & Public Safety
Division of Law
124 Halsey Street
Post Office Box 45029
Newark, NJ 07101-45029
renee.greenberg@law.njoag.gov

Rocco Della Serra
Office of Cable Television and
Telecommunications
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, NJ 08625-0350
rocco.dellaserra@bpu.nj.gov

**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

I/M/O the Joint Petition of Level 3 Communications, Inc., together with CenturyLink, Inc., for Approval of Indirect Transfer of Control of:

BPU DOCKET NO. TM16121159

Level 3 Communications, LLC, Level 3 Telecom of New Jersey, LP, Broadwing Communications, LLC, Global Crossing Local Services, Inc., Global Crossing Telecommunications, Inc., Telcove Operations, LLC, and WiTel Communications, LLC to CenturyLink, Inc. and Related Approvals

STIPULATION OF SETTLEMENT

APPEARANCES:

Zsuzsanna E. Benedek, Esq., Senior Counsel, CenturyLink, Inc., and Colleen A. Foley, Esq., Saul Ewing LLP, on behalf of CenturyLink, Inc.

Dennis C. Linken, Esq., Scarinci & Hollenbeck, LLC, on behalf of Level 3 Communications, LLC, Level 3 Telecom of New Jersey, LP, Broadwing Communications, LLC, Global Crossing Local Services, Inc., Global Crossing Telecommunications, Inc., Telcove Operations, LLC, and WiTel Communications, LLC

Renee Greenberg, Deputy Attorney General, (Christopher S. Porrino, Attorney General of New Jersey), on behalf of the Staff of the Board of Public Utilities

Stefanie Brand, Director, New Jersey Division of Rate Counsel, and Maria Novas-Ruiz, Esq., Assistant Deputy Rate Counsel, on behalf of the Division of Rate Counsel

TO THE HONORABLE BOARD OF PUBLIC UTILITIES:

The parties to this proceeding are CenturyLink, Inc. ("CenturyLink"), Level 3 Communications, LLC ("Level 3"), Level 3 Telecom of New Jersey, LP, Broadwing Communications, LLC, Global Crossing Local Services, Inc., Global Crossing Telecommunications, Inc., Telcove Operations, LLC, and WiTel Communications, LLC (collectively, the "Level 3 Companies," and collectively with CenturyLink, the "Joint Petitioners"); the Division of Rate Counsel ("Rate Counsel"); and the Staff of the New Jersey Board of Public Utilities ("Board Staff" or "Staff"). The New Jersey Board of Public Utilities shall be referred to in this Stipulation of Settlement ("Stipulation") as the "Board" or the "BPU."

PROCEDURAL HISTORY

On December 16, 2016, Joint Petitioners initiated this proceeding with the filing of a Verified Joint Petition, BPU Docket No. TM16121159, to obtain approval of the Board pursuant to N.J.S.A. 48:2-51.1, N.J.S.A. 48:3-10, N.J.S.A. 48:3-7, and N.J.A.C. 14:1-5.14 for the transfer of control of the Level 3 Companies to CenturyLink (the "Transaction"). Specifically, to effectuate the proposed Transaction CenturyLink created a direct subsidiary, Wildcat Holdco LLC, a Delaware limited liability company ("Holdco"), which in turn created two direct subsidiaries of its own, Wildcat Merger Sub 1 LLC ("Merger Sub 1") and WWG Merger Sub LLC ("Merger Sub 2"). The Agreement and Plan of Merger (the "Merger Agreement") provides, among other things, that: (i) Merger Sub 1 will merge with and into Level 3, with Level 3 surviving (the "Initial Merger"), and (ii) immediately thereafter, Level 3 will merge with and into Merger Sub 2, with Merger Sub 2 surviving (the "Subsequent Merger" and, together with the Initial Merger, the "Combination"). Following the Combination, Merger Sub 2 (the successor to Level 3) will be a direct wholly-owned subsidiary of Holdco, and Holdco will be a wholly-owned direct subsidiary of CenturyLink. Merger Sub 2 will survive the Subsequent Merger as an indirect wholly-owned subsidiary of CenturyLink. The Merger Agreement was included in the Verified Joint Petition at Exhibit A.

Joint Petitioners also sought approval, to the extent required, of certain proposed financing arrangements (the "Acquisition Debt") contemplated in connection with the proposed Transaction. Specifically, CenturyLink's subsidiary, CenturyLink Communications, LLC ("CLC"), a competitive local exchange carrier ("CLEC") and interexchange carrier in New Jersey, was initially identified as a possible guarantor of the Acquisition Debt. By way of a letter amendment to the Verified Joint Petition dated March 16, 2017, the Joint Petitioners notified the Board that the terms of the financing arrangements do not necessitate CLC's participation as a guarantor of the Acquisition Debt at this time.

Following the filing of the Verified Joint Petition, Board Staff and Rate Counsel promulgated extensive discovery, in response to which the Joint Petitioners provided extensive discovery responses. Thereafter, the Joint Petitioners, Board Staff and Rate Counsel engaged in settlement negotiations, during which discussions were held regarding the benefits provided by the Joint Petitioners as a result of the proposed Transaction. The Joint Petitioners, Rate Counsel and Board Staff (collectively, the "Signatory Parties") have come to an agreement on all factual and legal issues arising in this matter.

AGREEMENT

THEREFORE, the Signatory Parties, intending to be bound, hereto agree and stipulate as follows:

1. The statutory and regulatory criteria for approval of petitions involving acquisitions of control of a New Jersey CLEC, as set forth in N.J.S.A. 48:2-51.1, respectively, and N.J.A.C. 14:1-5.14, governing BPU Docket No. TM16121159, have been satisfied. More particularly, Joint Petitioners assert that the record in BPU Docket No. TM16121159, coupled

with the conditions set forth herein, supports findings and conclusions by the Board that the Transaction will not have an adverse impact on competition, on the rates of affected ratepayers, on the employees of the Level 3 Companies, or on the provision of safe and adequate service at just and reasonable rates. The Signatory Parties further agree that consummation of the Transaction is consistent with the conditions set forth in this Stipulation, is in the public interest, and will result in positive benefits to customers and the State of New Jersey.

2. Based on the foregoing and upon the Joint Petitioners' agreement to comply with the conditions set forth herein, Rate Counsel and Board Staff do not object to the Board making the findings set forth in Paragraph 1 above, and authorizing the Joint Petitioners to take all actions necessary, as described more fully in the Merger Agreement, in order for the Transaction to be lawfully consummated.

3. **Competition.** Joint Petitioners will continue to compete as applicable in Business Data Services ("BDS") markets in Verizon New Jersey's service territory, for a minimum period of three (3) years from the issuance of a Board Order approving the Transaction.

4. **Employment.** For three (3) years from the issuance of an Order approving the Transaction, if there is any net loss of customer-facing jobs in New Jersey greater than fifteen percent (15%), CenturyLink shall notify the Board Staff and Rate Counsel of such change and provide an appropriate explanation in writing within ten (10) days of such event.

5. **Pensions.** As of November 30, 2016, the Level 3 Companies had 83 employees located in the State of New Jersey.¹ Of those 83 employees, one employee is a participant in a legacy pension plan.² CenturyLink agrees that it will assume Level 3's obligations, or cause Level 3 to continue to meet its obligations, to that employee as outlined in his/her applicable pension plan documents. CenturyLink further agrees that it will abide by its obligations to its existing employees as outlined in their applicable pension plan documents.

6. **Access to 401(k) Plans.** Joint Petitioners assure the Board that every New Jersey Level 3 employee with an existing 401(k) plan will continue to have access to the same 401(k) plan, including their vested interests and prior contributions, immediately after closing of the proposed Transaction. While these Level 3 employees eventually may transition to the CenturyLink 401(k) plan, Joint Petitioners further assure the Board that any vested funds in impacted Level 3 employees' accounts are protected and are not subject to forfeiture. Accordingly, whether the same 401(k) plan is retained or whether transitioned to CenturyLink's 401(k) plan, all Level 3 employees will continue to have access to a 401(k) plan.

7. **Retail Telephone Service Reporting.** United Telephone Company of New Jersey, Inc. d/b/a CenturyLink ("United/CenturyLink") shall continue to comply with its Plan for Alternative Regulation ("PAR"), as approved by Board Order at Docket Nos. TX07110873 and TO08060451, and all applicable Board Orders, until further Board order, and shall continue to

¹ Response to Staff OCTV&T 1. See also, Joint Petition at ¶29.

² Responses to Staff OCTV&T 1 and OCTV&2.

comply with its obligation to provide safe, adequate, and proper service as required by applicable New Jersey statutes and regulations. Moreover, effective upon entry of a Board Order and continuing through December 31, 2020 unless further modified by the Board, United/CenturyLink agrees to provide to Board Staff and Rate Counsel semi-annual reports on or before September 30th and March 31st (for six-month prior period ending June 30th and December 31st) containing United/CenturyLink's service levels as set forth in N.J.A.C. 14:10-1A.8.

8. **Retail Broadband.** Effective upon entry of a Board Order, the United/CenturyLink shall:

- a) Continue with all commitments in Section II of its PAR, including its Bona Fide Retail Request ("BFRR") Program, until further order by the Board;
- b) To the extent required by the rules of the Federal Communications Commission ("FCC"), provide to Board Staff and Rate Counsel any notice of network changes involving the retirement of copper;
- c) To the extent submitted at the federal level, provide to Board Staff and Rate Counsel, within 30 days of submission at the federal level: (i) a copy of New Jersey specific Connect America Fund ("CAF") II location data uploaded to the USAC HUBB portal; and (ii) an exchange level summary of the reported information and cumulative totals; And,
- d) Continue to meet compliance obligations as codified by FCC rules for the FCC's CAF programs for which United/CenturyLink elects to participate for its New Jersey operations, or by other FCC broadband rules applicable to United/CenturyLink for its New Jersey operations.

9. **DSL Utilization Monitoring Process.** For three (3) years from the entry of a Board Order, United/CenturyLink shall continue with its DSL utilization monitoring process, which entails investigating and implementing relief options when utilization in a remote terminal reaches 65% during the busiest hour of the day over a two-week period. Moreover, effective upon entry of a Board Order approving the Transaction and continuing through December 31, 2020 unless further modified by the Board, United/CenturyLink shall provide a semi-annual report to Board Staff and Rate Counsel on or before September 30th and March 31st (for the six-month prior period ending June 30th and December 31st) identifying the results of its DSL utilization monitoring investigations.

10. **Annual Public Benefits Filing.** For a period of three (3) years from the entry of a Board Order approving the Transaction, United/CenturyLink shall file an annual report with the Board, with a copy to Rate Counsel, providing status on paragraphs 3 through 9 of this Stipulation. The three reports shall be due within 60 days from the anniversary of the date of Transaction close.

11. **Notice.** Within five (5) days of the date of the closing of the proposed Transaction, Joint Petitioners shall notify the Board Secretary, with a copy to all parties in this docket, of close of the Transaction.

12. Each Signatory Party agrees to use its best efforts to ensure that this Stipulation of Settlement shall be presented to the Board for approval at the Board's August 23, 2017 public agenda meeting. Each Signatory Party understands that a Board Order adopting this Stipulation will become effective in accordance with N.J.S.A. 48:2-40.

13. The Signatory Parties agree that this Stipulation represents the entirety of the agreement among the Signatory Parties. This Stipulation includes proposals and conditions above and beyond the terms contained in the Verified Joint Petition. Notwithstanding statements made in the Verified Joint Petition, discovery, materials or any information provided by the Joint Petitioners, only those commitments stated in this Stipulation shall apply.

14. The Signatory Parties agree to support approval of the Transaction upon the terms set forth in this Stipulation in any proceedings before the Board regarding approval of the proposed Transaction. The Signatory Parties further agree to defend this Stipulation in the event of opposition to approval of the proposed Transaction from non-signatory parties before the Board.

15. Notwithstanding anything to the contrary set forth herein, upon the occurrence of any of the following events this Stipulation shall terminate, and shall be deemed null and void and of no force or effect:

- a) if the Board fails to adopt a Final Order approving the Transaction and this Stipulation or issues a decision disapproving this Stipulation; or
- b) if for any reason the Transaction is not consummated; or
- c) if the Board issues a written order approving this Stipulation subject to any condition or modification of the terms set forth herein which an adversely affected Signatory Party, in its discretion, finds unacceptable. Such Signatory Party shall serve notice of unacceptability on the Parties within three (3) business days following receipt of such Board order. Absent such notification, the Signatory Parties shall be deemed to have waived their respective rights to object to the acceptability of such conditions or modifications contained in the Board order, which shall thereupon become binding on all Signatory Parties.

16. This Stipulation shall be binding on the Signatory Parties upon approval by the Board, without any change of its terms, or in the event of change, upon acceptance of such change (whether affirmatively accepted or by the passage of time). This Stipulation contains terms and conditions above and beyond the terms contained in the Verified Joint Petition, each of which is interdependent with the others and essential in its own right to the signing of this Stipulation. Each term is vital to the agreement as a whole, since the Signatory Parties expressly and jointly state that they would not have signed the Stipulation had any term been modified in any way.

17. This Stipulation is a negotiated result. Neither the Stipulation as a whole nor any particular provision shall constitute as binding precedent. Moreover, no provision contained in this Stipulation shall be construed as a limit of – or as a waiver of – any legal or policy argument or any position that a Signatory Party may assert, claim, or submit in defense in any future

proceeding before the Board or any other forum. None of the Signatory Parties shall be prohibited from or prejudiced in arguing different legal or policy positions before the Board in any other proceeding or in any other jurisdictions, as this agreement pertains only to these matters and to no other matter.

18. This Stipulation represents the full scope of the agreement between the Signatory Parties. This Stipulation may only be modified by a further written agreement executed by all the Signatory Parties to this Stipulation.

19. This Stipulation is submitted to the Board for approval as a whole. If a Signatory Party is adversely affected by a modification or condition to the Stipulation and provides timely notice in accordance with Paragraph 15, then the Stipulation shall be ineffective and void.

20. This Stipulation may be executed in as many counterparts as there are Signatory Parties of this Stipulation, each of which counterparts shall be an original, but all of which shall constitute one and the same instrument.

CENTURYLINK, INC.

August 3, 2017
Date

By: Colleen A. Foley
Colleen A. Foley, Esq.
Saul Ewing LLP
Attorneys for Joint Petitioner

LEVEL 3 COMMUNICATIONS, INC.

8/3/17
Date

By: Dennis C. Linken
Dennis C. Linken, Esq.
Scarinci & Hollenbeck, LLC
Attorneys for Joint Petitioner

CHRISTOPHER S. PORRINO
ATTORNEY GENERAL OF NEW JERSEY
Attorney for the Staff of the Board of
Public Utilities

Date

By: _____
Renee Greenberg
Deputy Attorney General

STEFANIE A. BRAND, ESQ.
DIRECTOR - DIVISION OF RATE COUNSEL

Date

By: _____
Stefanie A. Brand, Esq.
Director, Division of Rate Counsel

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Date

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Colleen A. Foley, Esq.
Saul Ewing LLP
Attorneys for Joint Petitioner

LEVEL 3 COMMUNICATIONS, INC.

Date

By: _____
Dennis C. Linken, Esq.
Scarinci & Hollenbeck, LLC
Attorneys for Joint Petitioner

CHRISTOPHER S. PORRINO
ATTORNEY GENERAL OF NEW JERSEY
Attorney for the Staff of the Board of
Public Utilities

8/7/17

Date

By: Renee Greenberg
Renee Greenberg
Deputy Attorney General

STEFANIE A. BRAND, ESQ.
DIRECTOR - DIVISION OF RATE COUNSEL

Date

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Attorneys for Joint Petitioner

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8/3/17
Date

By: Dennis C. Linken
Dennis C. Linken, Esq.
Scarinci & Hollenbeck, LLC
Attorneys for Joint Petitioner

CHRISTOPHER S. PORRINO
ATTORNEY GENERAL OF NEW JERSEY
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Public Utilities

Date

By: _____
Renee Greenberg
Deputy Attorney General

STEFANIE A. BRAND, ESQ.
DIRECTOR - DIVISION OF RATE COUNSEL

8/7/17
Date

By: Stefanie A. Brand
Stefanie A. Brand, Esq.
Director, Division of Rate Counsel