



Agenda Date: 2/19/20

Agenda Item: IVA

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

TELECOMMUNICATIONS

IN THE MATTER OF THE VERIFIED PETITION OF LEVEL 3) ORDER
COMMUNICATIONS, LLC, BROADWING)
COMMUNICATIONS, LLC, GLOBAL CROSSING)
TELECOMMUNICATIONS, INC., GLOBAL CROSSING)
LOCAL SERVICES, INC., LEVEL 3 TELECOM OF NEW)
JERSEY, LP, TELCOVE OPERATIONS, LLC AND WILTEL)
COMMUNICATIONS, LLC FOR APPROVAL TO)
PARTICIPATE IN CERTAIN FINANCING ARRANGEMENTS) DOCKET NO. TF19121510

Parties of Record:

Colleen A. Foley, Esq., Saul Ewing Arnstein and Lehr LLP
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

On December 6, 2019, Level 3 Communications, LLC (“Level 3 LLC”), Broadwing Communications, LLC (“Broadwing”), Global Crossing Telecommunications, Inc.

(“GC Telecommunications”), Global Crossing Local Services, Inc. (“GC Local”), Level 3 Telecom of New Jersey, LP (“Level 3 Telecom”), TelCove Operations, LLC (“TelCove”), and WilTel Communications, LLC (“WilTel”) (collectively the “Petitioners”), 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 financing arrangements in connection with the issuance of \$750 million aggregate principal amount of 3.400% Senior Notes due 2027 and \$750 million aggregate principal amount of 3.875% Senior Notes due 2029 (together the “Senior Notes”) by their parent company, Level 3 Financing, Inc. (“Financing”) and the entrance by Financing into a new term loan arrangement in the aggregate principal amount of \$3,110,500,000 (the “Term Loan”).

Specifically, Petitioners requested approval (1) to act as guarantors for the Senior Notes and Term Loan upon receipt of the required regulatory approvals, including from the Board, and (2) for their equity and other assets to be pledged in support of the Senior Notes and Term Loan. Additionally, Level 3 LLC has amended and restated the existing intercompany demand note (the “Intercompany Demand Note”) issued to Financing as part of its prior 2017 financing arrangement which was previously approved by the Board.¹ Petitioners requested approval to permit the

¹ See New Jersey Board of Public Utilities, Order, Docket No. TF17111187, at 3 (Jan. 31, 2018).

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

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 competitive 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.

Broadwing is authorized to provide local exchange and interexchange telecommunications services in New Jersey pursuant to authority granted by the Board in Docket Nos. TE99030202 and TM04080767.

GC Telecommunications is authorized to provide facilities-based interexchange telecommunications services in New Jersey pursuant to authority granted in BPU Docket Nos. TE85030250 and TM10060393. The authority originally granted in BPU Docket No. TE85030250 was granted to RCI Corp., which subsequently operated as Frontier Communications International, Inc. and then as Global Crossing North American Networks, Inc. The Board approved the transfer of the facilities-based authority to Global Crossing Telecommunications, Inc. in BPU Docket No. TM10060393.

GC Local is authorized to provide intrastate telecommunications service in New Jersey pursuant to authority granted on October 15, 1999 in BPU Docket No. TE99030204. This authority was originally granted to Frontier Local Services, Inc., whose name was changed to Global Crossing Local Services, Inc. with notice given to the Board on January 7, 2000.

Level 3 Telecom is authorized to provide local exchange telecommunications services in New Jersey pursuant to BPU Docket No. TE98121438, dated July 28, 1999. Following a prior name change, the entity thereafter filed a notice of name change to Level 3 Telecom of New Jersey, LP on April 19, 2016, in BPU Docket No. TT16040311.

TelCove is authorized to provide competitive local exchange and interexchange telecommunications services in New Jersey by virtue of authority originally granted to Adelpia Business Solutions Investment, LLC in BPU Docket Nos. TM97110843, TE9705037, TM98101156 and TM00040275. Adelpia Business Solutions Investment, LLC was authorized to change its name to TelCove Investment, LLC in BPU Docket Nos. TT04050370, TT04050371 and TT04050372. The Board approved the transfer of that authority to TelCove Operations, LLC on March 2, 2007 in BPU Docket No. TM06120889.

WilTel is authorized to provide interexchange telecommunications services in New Jersey pursuant to a certificate granted by the Board in BPU Docket No. TE98080699, on September 4, 1998. This authority was originally granted to Williams Communications, Inc. d/b/a Vyvx, Inc. The company notified the Board of its conversion to an LLC and its name change on April 27, 2001 and November 13, 2002, respectively.

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

DISCUSSION

Petitioners request Board approval to participate in a debt financing arrangement (the "financing arrangement") as addressed and described in greater detail in the Petition. Financing has issued \$1.5 billion 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 entered into a Term Loan in the aggregate principal amount of \$3,110,500,000, with a maturity date of 2027. The aggregate proceeds from the Senior Notes and the Term Loan, together with cash available to Financing, were used to prepay Financing's Tranche B 2024 Term Loan in an aggregate principal amount of \$4,610,500,000, which was set to mature in 2024. Financing has lent funds equal to the \$4,610,500,000 net aggregate proceeds of the Senior Notes and Term Loan to its subsidiary Level 3 LLC in return for an amended and restated version of a previously issued intercompany demand note.² Petitioners state that the amended and restated Intercompany Demand Note is in substantially the same form as the note utilized for the financing approved by the Board in January 2018. Since there are now multiple sources of original proceeds used by Financing to fund the loan to Level 3 LLC, specifically the Senior Notes and the new Term Loan, the Intercompany Demand Note now references those multiple sources of original proceeds.

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

Petitioners also request 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. Petitioners state 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. Petitioners state that, in an abundance of caution, they seek Board approval pursuant to N.J.S.A. 48:3-9 in the event the Intercompany Demand Note were to remain unpaid for more than 12 months from the date of issuance.

² See *id.*

According to the Petitioners, participation in the new financing arrangement will not result in a change in their management or in their day-to-day operations in New Jersey, nor will it adversely affect the Petitioners' current or proposed operations in New Jersey. The Petitioners also assert that the financing arrangement will have no impact on their ability to fulfill their pension obligations.

Petitioners state 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 Petitioners with the financial flexibility to maintain and expand their networks and services. Petitioners further assert that the financing arrangement will enable them to continue delivering services to new markets, thus allowing more consumers to benefit from their competitive services.

Petitioners also state 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, Petitioners assert they will continue to provide high-quality communications services to their customers without interruption and without immediate change in rates, terms, or conditions.

The Division of Rate Counsel has reviewed this matter and, by letter dated January 23, 2020, stated that it does not oppose the Board's grant of the petitioned requests.

FINDINGS AND CONCLUSIONS:

After careful review of this matter, the Board **FINDS** that the proposed financing arrangement is consistent with applicable law. The Board **HEREBY AUTHORIZES** Petitioners to participate in the financing arrangement as described herein and in the Petition.

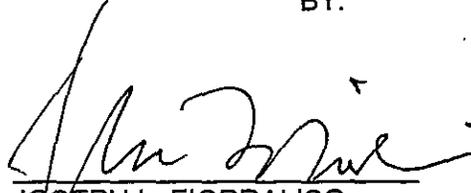
This Order is issued subject to the following provisions:

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 Petitioners.
2. Petitioners shall notify the Board, within five (5) 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. Petitioners shall notify the Board of any material default in the terms of the proposed financing within five (5) 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 Petitioners' 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 Petitioners.

This Order shall become effective on February 29, 2020.

DATED: 2/19/20

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



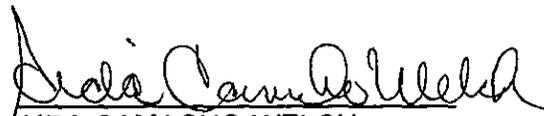
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COMMISSIONER



UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST: 

AIDA CAMACHO-WELCH
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 PETITION OF LEVEL 3 COMMUNICATIONS, LLC,
BROADWING COMMUNICATIONS, LLC, GLOBAL CROSSING TELECOMMUNICATIONS,
INC., GLOBAL CROSSING LOCAL SERVICES, INC., LEVEL 3 TELECOM OF NEW JERSEY,
LP, TELCOVE OPERATIONS, LLC AND WITEL COMMUNICATIONS, LLC FOR APPROVAL
TO PARTICIPATE IN CERTAIN FINANCING ARRANGEMENTS
DOCKET NO. TF19121510

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