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STEFANIE A. BRAND  
*Director*

**Via Electronic Mail Only**

September 21, 2020

Ms. Aida Camacho-Welsh, Board Secretary  
New Jersey Board of Public Utilities  
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P.O. Box 350  
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[aida.camacho@bpu.nj.gov](mailto:aida.camacho@bpu.nj.gov)

Re: In the Matter of the Petition of Level 3 Communications, LLC for Approval to Participate in a Financing Arrangement (8/20). **BPU Docket No. TF20080540**

Dear Board Secretary:

The New Jersey Division of Rate Counsel (“Rate Counsel”) submits comments in the above referenced Petition filed by Level 3 Communications, LLC (“Level 3 LLC” or “Petitioner”) with the New Jersey Board of Public Utilities (“Board”) on August 26, requesting Board approval to participate in a financial arrangement serving as guarantor on the refinancing of Senior Notes issued totaling \$840 million in the aggregate of other debt due in 2023 by its parent company Level 3 Financing, Inc. (“Financing”).<sup>1</sup> Rate Counsel is only filing electronically and requests acknowledgement of this filing electronically for Rate Counsel’s records. For the reasons discussed below, Rate Counsel does not oppose Board approval of Petitioner’s requests as stated in the Verified Petition.

**Discussion**

Level 3 Parent, LLC (“Level 3 Parent”) is a wholly owned subsidiary of CenturyLink, Inc. (NYSE: CTL) and a Delaware limited liability company with principal offices located in

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<sup>1</sup> On August 31, 2020, Petitioner provided responses to Board Staff’s information requests in connection with this financing.

Broomfield, Colorado. Level 3 Parent provides high-quality voice and data services to enterprise, government, wholesale, and carrier customers over its IP-based network through its wholly owned indirect subsidiaries including Financing and the Petitioner. In New Jersey, Petitioner provides resold and facilities-based local exchange and interexchange telecommunications services pursuant to Board certification issued in BPU Docket No. TE97120913 on October 20, 1998.<sup>2</sup> Petitioner's requests will refinance previously Board approved financial arrangements (Senior Notes) under Board Orders in dockets TF15020239 dated April 15, 2015, and TF15060652, Order (dated July 23, 2015), due 2023.<sup>3</sup> Under the proposed transaction Financing has lent funds equal to the \$840 million proceeds of the Senior Notes to its subsidiary Level 3 LLC in return for an intercompany demand note.<sup>4</sup> Specifically, Financing will redeem all of the \$140 million aggregate principal amount of the outstanding 5.625% Senior Notes due 2023 and all of the \$700 million aggregate principal amount of the 5.125% Senior Notes due 2023. Petitioner asserts that the lower interest rate (3.625%) will result in an annual interest expense reduction of approximately \$13.3 million, and the average maturity of the \$840 million of debt will be extended by more than six years to 2029. Therefore, Level 3 LLC seeks Board approval pursuant to *N.J.S.A.* 48:3-9, and any other applicable regulations and statutes, in the event the intercompany demand note remains unpaid for more than 12 months from the date of issuance.<sup>5</sup> The current financing request extends the existing financing on similar terms and conditions in

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<sup>2</sup> Petition, Section I.

<sup>3</sup> *Id.*, at fn. 2.

<sup>4</sup> *Id.*, Section III.

<sup>5</sup> *Id.*

the prior financial arrangements previously approved by the Board.<sup>6</sup> The financing will in-part restructure existing long-term debt and is intended to strengthen the company and enable Petitioners to continue to provide quality services to customers and strengthen competition for these services in New Jersey.<sup>7</sup> Petitioner also affirms its participation in the new financing arrangement will not result in a change in any changes to Petitioner's management or in Petitioner's day-to-day operations in New Jersey, nor will the financing arrangement adversely affect Petitioner's current or proposed operations in New Jersey... and ... have no impact on Petitioner's ability to fulfill pension obligations to its employees, as required under N.J.S.A. 48:3-7.<sup>8</sup>

Prior Board approval of any encumbrance or mortgage of a telecommunications service provider is required; otherwise, the transaction is void under New Jersey law.<sup>9</sup> As the Petitioner's assets will secure the debt, in part, the Board's approval must be based on its satisfaction that the debt is made according to law and that the debt serves a beneficial purpose.<sup>10</sup> *N.J.S.A. 48:3-9* and *N.J.A.C. 14:1-5.9*. Petitioners assert that the financing contemplated is not contrary to the public interest, will not affect service quality, will be transparent to customers, will not affect rates, terms and conditions of service and will serve a beneficial purpose increasing Petitioner's

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<sup>6</sup> Petition, at fn.2.

<sup>7</sup> Id., Section IV., p. 5.

<sup>8</sup> Id., Section III., p. 4.

<sup>9</sup> *N.J.S.A. 48:3-9, et seq.* If the Board finds that after investigation there is doubtful benefit to the petitioner, the Board may withhold approval. See, *Interstate Telephone & Telegraph Co. v. Board of Public Utility Commissioners*, 84 *N.J.L.* 184 (Sup. Ct. 1913), wherein the court interpreted the 'approval of the purpose' provision to empower the Board with the authority to withhold approval if in its judgment the purpose of the debt incurred will have doubtful benefit to the applicant.

<sup>10</sup> Petition, Section IV., p. 5.

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ability to effectively compete in the market by improving operating efficiencies.<sup>11</sup> Rate Counsel also respectfully recommends that the Board direct Petitioner 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.

Rate Counsel relies on the assertions provided by Petitioner that the funds generated by the enhanced financing will promote increased service offerings and competition in the New Jersey telecommunications market ultimately for the benefit of both residential and business customers in this state. Accordingly, Rate Counsel has no objection should the Board determine after its financial review that approval is prudent and warranted.

Thank you for your attention to this matter.

Very truly yours,

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

*/s/ Maria T. Novas-Ruiz*  
Maria T. Novas-Ruiz, Esq.  
Assistant Deputy Rate Counsel

MNR/td  
c: Service List

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<sup>11</sup>Additionally, on August 31, 2020, Petitioners provided responses to Board Staff's data requests in connection with the financing.

**In the Matter of the Verified  
Petition of Level 3  
Communications, LLC, for  
Approval to Participate in A  
Financing Arrangement**

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