

Decision No. C23-0047

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22U-0562T

IN THE MATTER OF THE LEVEL 3 COMMUNICATIONS LLC, PETITION FOR
DECLARATION OF INTENT TO SERVE WITHIN THE TERRITORY OF A RURAL
TELECOMMUNICATIONS PROVIDER, AS PROVIDED IN RULE 2107.

COMMISSION DECISION GRANTING PETITION

Mailed Date: February 7, 2023
Adopted Date: January 25, 2023

I. BY THE COMMISSION

A. Statement

1. On December 20, 2022, Level 3 Communications, LLC (Level 3 or Company), a subsidiary of CenturyLink, Inc., now doing business as Lumen Technologies (Lumen), filed a petition stating its Declaration of Intent to Serve Within the Territory of a Rural Telecommunications Provider (Petition) pursuant to Rules 2003(a)(III) and 2107 of the Rules Regulating Telecommunications Services and Providers of Telecommunications Services, 4 *Code of Colorado Regulations* (CCR) 723-2.

The services to be provided are located in the serving territories of CenturyTel of Eagle (CTE) and CenturyTel of Colorado Inc. (CTC). The Company intends to provide these services in the Akron, Antonito, Allison, Branson, Bristol-Granada, Burlington, Campo, Center, Cheraw, Cheyenne Wells, Collbran, Creede, Dinosaur, Dolores, Dove Creek, Eagle, Edwards, Fowler, Gardner, Gypsum, Holly, Howard, Ignacio, La Jara, La Junta, Lake City, Lake George, Lamar, Las Animas, La Veta, Manassa, Manzanola, Marvel, Maybell, McCoy, Mesa, Norwood, Ordway,

Otis, Pagosa Springs, Pagosa West, Pike Trails, Rangely, Red Feather Lakes, Rocky Ford, Saguache, San Luis, Springfield, Stratton, Two Buttes, Walden, Walsh, Westcliffe, Weston, Wiley, Wray and Yuma exchanges.

2. On December 22, 2022, a notice of the application was provided to all persons, firms, or corporations, interested in, or affected by the grant or denial of the requested relief.

3. Level 3 has represented in its Petition that CTE and CTC are both Lumen subsidiaries. Therefore, a formal notice is not needed, nor will it be provided to either CenturyTel of Eagle or CenturyTel of Colorado.

B. Discussion

4. Intervention requests were due on January 23, 2023. No petition to intervene or notice of intervention has been filed; thus, the Petition is uncontested. Accordingly, the Petition will be determined without a formal hearing in accordance with § 40-6-109(5), C.R.S., and Rule 1403 of the Rules of Practice and Procedure, 4 CCR 723.

5. The service territory of CenturyTel of Eagle is currently open to competitive providers and competitive entry. The service territory of CenturyTel of Eagle Inc. d/b/a CenturyLink is also subject to competition as demonstrated with interconnection agreements (including Proceeding Nos. 19T-0028, 18T-0502, 08T-087, and 05T-251).

6. The service territory of CenturyTel of Colorado is currently open to competitive providers and competitive entry. The service territory of CenturyTel of Colorado is also subject to competition as demonstrated by interconnection agreements (including Proceeding Nos. 20T-0417, 08T-193, and 06T-407).

7. Level 3 was granted a Certificate of Public Convenience and Necessity (CPCN) to provide local exchange telecommunications services with Decision No. C98-373, Proceeding No. 98A-092T, with a mailed date of April 8, 1998.

8. In 2014, the General Assembly passed telecom deregulation legislation that reclassified many services into Part 4 of Title 40, Article 15. *See* § 40-15-401, C.R.S. Subject to certain exceptions, including those for basic service as provided in § 40-15-401(1)(b), C.R.S., products, services, and providers listed in § 40-15-401, C.R.S. (Part 4), “are exempt from regulation under this article or under the ‘Public Utilities Law’ of the state of Colorado.” § 40-15-401(1), C.R.S. Section 402 also emphasizes the deregulatory status of services listed in section 401, by stating: “Nothing in articles 1 to 7 of this title [40] or parts 2 and 3 of this article [15] shall apply to deregulated services and products pursuant to this part 4.” § 40-15-402(1), C.R.S.

9. We acknowledge that Level 3’s services are no longer regulated under Part 2 of § 40-15-201, C.R.S., but Level 3 is requesting approval of its intent to serve pursuant to Rule 2107 adopted September 1, 2017. The Commission, by this Decision, is not asserting jurisdiction over Level 3 services.

10. The Commission updated its existing telecommunications rules to be consistent with the 2014 Telecommunications Reform Legislation. *See Proceeding No. 16R-0453T*. The 2014 Telecommunications Reform Legislation made changes that no longer require Commission authorization (a CPCN) to offer deregulated local exchange services.

11. The Federal Telephone Numbering Administrator that assigns the thousand block pooling of numbers to providers, requires that the Company provide state commission approval as part of its required documentation to obtain telephone numbers to offer competitive services in rural areas. The Commission will consider Level 3's Petition but affirms that it does not assert any jurisdiction over deregulated services of local exchange services. The Company intends to provide these services in Akron, Antonito, Allison, Branson, Bristol-Granada, Burlington, Campo, Center, Cheraw, Cheyenne Wells, Collbran, Creede, Dinosaur, Dolores, Dove Creek, Eagle, Edwards, Fowler, Gardner, Gypsum, Holly, Howard, Ignacio, La Jara, La Junta, Lake City, Lake George, Lamar, Las Animas, La Veta, Manassa, Manzanola, Marvel, Maybell, McCoy, Mesa, Norwood, Ordway, Otis, Pagosa Springs, Pagosa West, Pike Trails, Rangely, Red Feather Lakes, Rocky Ford, Saguache, San Luis, Springfield, Stratton, Two Buttes, Walden, Walsh, Westcliffe, Weston, Wiley, Wray and Yuma exchanges.

12. We find that granting Level 3's Petition is consistent with the legislative policy statements contained in §§ 40-15-101, 40-15-501, and 40-15-502, C.R.S., the Telecommunications Act of 1996, 47 U.S.C. § 251, and with the public interest in Level 3's to provide competitive services in the requested rural exchanges.

I. ORDER

A. The Commission Orders That:

1. The Petition filed by Level 3 Communications, LLC on December 20, 2022, stating its Declaration of Intent to Serve Within the Territory of a Rural Telecommunications Provider to serve in the Akron, Antonito, Allison, Branson, Bristol-Granada, Burlington, Campo, Center, Cheraw, Cheyenne Wells, Collbran, Creede, Dinosaur, Dolores, Dove Creek, Eagle, Edwards, Fowler, Gardner, Gypsum, Holly, Howard, Ignacio, La Jara, La Junta, Lake City, Lake George,

Lamar, Las Animas, La Veta, Manassa, Manzanola, Marvel, Maybell, McCoy, Mesa, Norwood, Ordway, Otis, Pagosa Springs, Pagosa West, Pike Trails, Rangely, Red Feather Lakes, Rocky Ford, Saguache, San Luis, Springfield, Stratton, Two Buttes, Walden, Walsh, Westcliffe, Weston, Wiley, Wray and Yuma exchanges is granted. Notwithstanding the granting of the Petition, the Commission is not exerting jurisdiction over Level 3’s services.

2. The 20-day time period provided by § 40-6-114, C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the effective date of this Decision.

3. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS’ WEEKLY MEETING
January 25, 2023.**

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

_____ Commissioners

G. Harris Adams,
Interim Director

COMMISSIONER JOHN GAVAN’S
TERM EXPIRED FEBRUARY 3, 2023.