

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

*In the Matter of*

**tw telecom inc.**

*Transferor,*

**Level 3 Communications, Inc.,**

*Transferee, and*

**tw telecom of hawaii l.p.**

*Licensee,*

Application for Consent to Transfer Control  
of a Joint Interest in the Cable Landing License  
for the Hawaiian Islands Fiber Network  
Pursuant to the Cable Landing License Act of  
1921, as Amended

File No. SCL-T/C-20140707-\_\_\_\_\_

**CONSOLIDATED APPLICATION FOR TRANSFER OF CONTROL –  
STREAMLINED PROCESSING REQUESTED**

Pursuant to 47 U.S.C. §§ 34-39, Executive Order 10,530, and 47 C.F.R. § 1.767, tw telecom inc. (“TWT Parent”) (FRN 0015338122) and Level 3 Communications, Inc. (“Level 3 Parent”) (FRN 0005868732), request that the Commission consent to the transfer of control to Level 3 Parent of a joint interest in the cable landing license for the Hawaiian Islands Fiber Network (“HIFN”) held by tw telecom of hawaii l.p. (“TWT Hawaii, together with TWT Parent and Level 3 Parent, “Applicants”) (FRN 0004351169). Level 3 Parent and its special-purpose subsidiaries, Saturn Merger Sub 1, LLC (“Merger Sub 1”), and Saturn Merger Sub 2, LLC (“Merger Sub 2”), have entered into an agreement to acquire TWT Parent in a stock- and cash-based transaction that will result in Level 3 Parent controlling TWT Parent’s operating

subsidiaries (the “Proposed Transaction”).<sup>1</sup> The Applicants seek to consummate the Proposed Transaction by early October 2014.

Level 3 Parent’s acquisition of TWT Parent’s operating subsidiaries (“TWT Subsidiaries”) will serve the public interest, convenience, and necessity by joining two complementary, non-dominant providers and greatly strengthening their ability to compete with larger incumbents—particularly AT&T, Verizon Business, and CenturyLink—and with other competitive carriers in the enterprise market. Global customers of Level 3 Parent’s operating subsidiaries (“Level 3 Subsidiaries”) will benefit from the TWT Subsidiaries’ deep metropolitan footprint and buildings connected to the network, enabling a higher quality and more reliable on-net experience for customers doing business in North America. The TWT Subsidiaries’ customers will benefit from the Level 3 Subsidiaries’ extensive local-to-global footprint, with owned network and data centers in more than 60 countries and significant global subsea networks. Existing and prospective customers of both companies will benefit from the combined product portfolio, targeted at helping enterprise customers and carriers manage their growth in an efficient and secure manner. In Hawaii, TWT Hawaii’s control of capacity on HIFN will greatly strengthen Level 3’s ability to compete for customers in Hawaii, providing a critical link for Level 3’s local-to-global coverage there.

As Level 3 Parent will issue a significant number of shares to TWT Parent’s existing (and overwhelmingly U.S.) shareholders as partial consideration for the Proposed Transaction, consummation thereof will significantly dilute aggregate foreign ownership in Level 3 Parent.

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<sup>1</sup> Concurrent with this application, the Applicants and their affiliates have filed one other application with the Commission in connection with the Proposed Transaction—a consolidated application to transfer control to Level 3 Parent of domestic and international Section 214 authority of tw telecom holdings, inc. and 34 of its operating subsidiaries (the “214 Transfer Application”). Level 3 Parent will not acquire control of any Title III radiocommunication licenses as a consequence of the Proposed Transaction.

Level 3 Parent commits to extend the national security, law enforcement, and public safety commitments made in the September 26, 2011, network security agreement (the “Level 3 NSA”) by and among the U.S. Departments of Defense, Homeland Security, and Justice (collectively, “Team Telecom”), that was executed in connection with Level 3 Parent’s acquisition of Global Crossing Ltd. in 2011 and requests that the Commission condition its consent to the Proposed Transaction upon Level 3 Parent’s continuing compliance with the Level 3 NSA.<sup>2</sup>

The Proposed Transaction raises no public-interest concerns that would warrant an extended review or transaction-specific conditions for consent (other than the Team Telecom condition requested in part V below). Indeed, this application qualifies for presumptive streamlined processing under 47 C.F.R. § 1.767(k)(1), and the Applicants therefore request such treatment. HIFN is a domestic submarine cable system and therefore raises no foreign-affiliation issues in destination markets. Moreover, the Proposed Transaction creates no new combinations that would adversely affect competition in any geographic market for submarine cable capacity.

## **I. BACKGROUND**

### **A. Parties to the Proposed Transaction**

#### **1. Transferor-Related Entities**

##### **a. TWT Parent**

TWT Parent, together with the TWT Subsidiaries, is a leading U.S. provider of managed network services. It is a Delaware corporation headquartered in Littleton, Colorado. Through its operating subsidiaries, TWT Parent specializes in offering business Ethernet, data networking, converged, IP-Based virtual private network, Internet access, voice, voice over Internet protocol,

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<sup>2</sup> *Applications Filed by Global Crossing Ltd. & Level 3 Communications, Inc. for Consent to Transfer Control*, Memorandum Opinion and Order and Declaratory Ruling, 26 FCC Rcd. 14,056, 14,081 ¶ 68 (Wireline Comp. and Int’l Burs. 2011) (“*Level 3-GCL Order*”).

and network services to enterprise customers and carriers, in competition with the large ILECs—particularly AT&T, Verizon Business, and CenturyLink—and also with other competitive carriers. These operating subsidiaries serve 76 U.S. metropolitan markets with local fiber networks connected to regional fiber facilities and a national IP backbone. Its operating subsidiaries operate a fiber network spanning more than 24,300 route miles with direct connections to more than 20,000 buildings, including 550 third-party data centers. TWT Parent was originally founded as a division of Time Warner Cable, which was in turn owned by Time Warner Inc. TWT Parent was later known as Time Warner Communications and then Time Warner Telecom Inc. Time Warner Inc. sold its ownership stake in TWT Parent in 2006, and neither Time Warner Inc. nor Time Warner Cable currently holds any ownership interest in TWT Parent. TWT Parent is a publicly-traded company listed on the NASDAQ Stock Market (symbol: TWTC). Exhibit A to this application shows TWT Parent’s current ownership and the ownership structure of TWT Parent and its operating subsidiaries, including TWT Hawaii.

**b. tw telecom of hawaii l.p. (“TWT Hawaii”)**

TWT Hawaii provides intrastate, interstate, and resold international telecommunications services in the State of Hawaii. It is a Delaware limited partnership and an indirect subsidiary of TWT Parent. TWT Hawaii owns HIFN jointly with Wavecom Solutions Corporation (“Wavecom”), a subsidiary of Hawaiian Telcom Inc., and is a joint licensee for the HIFN cable landing license.<sup>3</sup>

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<sup>3</sup> *GST Telecom Hawaii, Inc. and Time Warner Telecom of Hawaii, L.P.*, Modification of Cable Landing License, 16 FCC Rcd. 869 (Int’l Bur. 2001), FCC File No. SCL-MOD-20001025-00036 (adding Time Warner Telecom of Hawaii, L.P. (later renamed TWT Hawaii) as joint cable landing licensee); *Actions Taken Under the Cable Landing License Act*, Public Notice, 29 FCC Rcd. 139 (2014), FCC File No. SCL-MOD-20131114-00012 (adding *pro forma* condition to cable landing license). As explained in the 214 Transfer Application, TWT Hawaii relies on the blanket domestic Section 214 authorization in 47 C.F.R. § 63.01; in

HIFN is a non-common-carrier submarine cable system connecting six of the Hawaiian Islands. TWT Hawaii owns 12 of the 24 fiber pairs on five HIFN segments: (1) Kauai (Wailua Golf Course) to Oahu (Makaha); (2) Oahu (Makaha) to Oahu (Keawaula); (3) Oahu (Keawaula) to Oahu (Sandy Beach); (4) Oahu (Sandy Beach) to Maui (Mokapu); and (5) Maui (Mokapu) to Hawaii (Spencer Beach). It owns the associated cable sheath jointly with Wavecom and holds rights to access the Wavecom beach manholes and splice boxes. Wavecom owns the branching units and fiber pairs connecting to the islands of Lanai and Molokai. Wavecom also owns and operates all of HIFN's cable stations, which house the power feed equipment for HIFN. To access its fiber pairs, TWT Hawaii has spliced in terrestrial fiber between its own equipment huts and the beach manholes.

## **2. Transferee Entities**

### **a. Level 3 Parent**

Level 3 Parent is a global telecommunications and information services company. It is a Delaware corporation headquartered in Broomfield, Colorado. Through its operating subsidiaries, Level 3 Parent offers a wide range of communications services over its extensive broadband fiber-optic network in North America, Europe, and Asia, including IP-based services, broadband transport, collocation services, and patented Softswitch-based voice services. Level 3 Parent's operating subsidiaries hold numerous Commission authorizations for submarine cable facilities, international telecommunications services, satellite earth stations, and terrestrial wireless facilities, and they rely on blanket authority to provide domestic telecommunications services. Level 3 Parent is a publicly-traded company listed on the New York Stock Exchange (symbol: LVLT). Exhibit B to this application shows Level 3 Parent's current ownership.

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providing resold U.S.-international services, TWT Hawaii relies on the TWTH's international Section 214 authorization pursuant to 47 C.F.R. § 63.21(h).

Exhibit C to this application shows the ownership structure of Level 3 Parent's relevant U.S. operating subsidiaries.

Level 3 Parent's operating subsidiaries hold cable landing licenses for the Atlantic Crossing-1, Mid-Atlantic Crossing, Pan American Crossing, South American Crossing, and Yellow/Atlantic Crossing-2 systems. None of these systems lands in Hawaii.

At present, Level 3 Parent's principal U.S. operating subsidiary, Level 3 Communications, LLC ("Level 3 LLC"), offers voice services in Hawaii. Neither Level 3 LLC nor any other Level 3 Parent subsidiary currently offers data services in Hawaii, and none currently has an "on-net" last-mile facilities (*i.e.*, fibers that are owned, held as indefeasible rights of use, or leased on a long-term basis and that are lit and managed to reach an end-user customer's building) in Hawaii.

**b. Merger Sub 1**

Merger Sub 1 is a Delaware limited-liability company and a wholly-owned, direct subsidiary of Level 3 Parent, which created Merger Sub 1 solely for the purpose of effecting the Proposed Transaction. In the first step of a two-step merger, Merger Sub 1 will merge into TWT Parent, with TWT Parent surviving.

**c. Merger Sub 2**

Merger Sub 2 is a Delaware limited-liability company and a wholly-owned, direct subsidiary of Level 3 Parent, which created Merger Sub 2 solely for the purpose of effecting the Proposed Transaction. In the second step of a two-step merger, Merger Sub 2 will merge into TWT Parent, with Merger Sub 2 surviving and renamed as tw telecom llc.

## **B. The Proposed Transaction**

On June 15, 2014, TWT Parent, Level 3 Parent, Merger Sub 1, and Merger Sub 2 executed an Agreement and Plan of Merger (“Merger Agreement”) whereby Level 3 Parent will, following the receipt of necessary stockholder and regulatory approvals, acquire all of the issued and outstanding stock of TWT Parent. The merger is structured as a double reverse triangular merger in order to qualify as a reorganization within the meaning of Section 368(a) of the Internal Revenue Code. In the first step of the merger, Merger Sub 1 will merge into TWT Parent, with TWT Parent surviving. In the second step, Merger Sub 2 will merge into TWT Parent, with Merger Sub 2 surviving as a wholly-owned, direct subsidiary of Level 3 Parent and renamed as tw telecom llc. Thereafter, TWT Hawaii and TWT Hawaii will be subsidiaries of tw telecom llc, as shown in the diagram in Exhibit D to this application.

Pursuant to the Merger Agreement, all TWT Parent common shares (excluding shares held by dissenting shareholders) will be cancelled and cease to exist. As consideration, TWT Parent shareholders (excluding dissenting shareholders) will receive 0.7 shares of Level 3 Parent common stock and US \$10.00 for each share of TWT Parent common stock owned at closing (the “Merger Consideration”). The common shares of dissenting shareholders that perfect a right of appraisal for such shares under Delaware law will receive value for their shares pursuant to the procedures established under Delaware law. Those dissenting shareholders failing to perfect a right of appraisal for their shares will receive Merger Consideration for their common shares in TWT Parent. Level 3 Parent’s issuance of approximately 98 million shares of common stock as part of the Merger Consideration will dilute Level 3 Parent’s existing shareholders, including its existing foreign shareholders.

Consummation of the Proposed Transaction will dilute the ownership interest of Level 3 Parent's largest foreign shareholder, STT Crossing Ltd, from approximately 23.4 percent to 16.3 percent. Moreover, the Proposed Transaction will not affect the Stockholder Rights Agreement executed by Level 3 Parent and STT Crossing Ltd (last amended on November 28, 2011), which defines STT Crossing Ltd's rights and caps the percentage of shares it may own (34.5 percent) without the written consent of Level 3 Parent's board of directors (excluding directors designated by STT Crossing).

The Proposed Transaction values TWT Parent at US \$40.86 for each TWT Parent common share, or a total of approximately US \$5.7 billion.<sup>4</sup> Taken with TWT Parent's net debt of approximately US \$1.6 billion, consideration for the Proposed Transaction is valued at US \$7.3 billion.

## **II. INFORMATION REQUIRED BY 47 C.F.R. § 1.767(a)(11)(i)**

Pursuant to 47 C.F.R. § 1.767, the Applicants provide the following information in support of the Applicants' request for consent to transfer control a joint interest in the HIFN cable landing license from TWT Parent to Level 3 Parent:

### **(1) Applicants' Names, Addresses, and Telephone Numbers<sup>5</sup>**

The name, address, and telephone number of each Applicant are:

#### **Transferor**

tw telecom inc.  
10475 Park Meadows Drive  
Littleton, Colorado 80124  
+1 303 566 1000 tel

#### **Transferee**

Level 3 Communications, Inc.  
1025 Eldorado Boulevard  
Broomfield, Colorado 80021  
+1 720 888 2538 tel

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<sup>4</sup> The value may vary depending on market prices of TWT Parent and Level 3 Parent shares.

<sup>5</sup> See 47 C.F.R. § 1.767(a)(1).



**Authorization Holder**

tw telecom of hawaii l.p.  
10475 Park Meadows Drive  
Littleton, Colorado 80124  
+1 303 566 1000 tel

**(2) Applicants' Places of Incorporation<sup>6</sup>**

The Applicants' places of organization or incorporation are described in part I.A above.

**(3) Contact Information<sup>7</sup>**

The Commission should address correspondence regarding this application to:

**Transferor/Licensee**

Rochelle Jones  
Vice President Regulatory  
tw telecom inc.  
10475 Park Meadows Drive  
Littleton, Colorado 80124  
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**Transferee**

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Level 3 Communications, LLC  
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*and*

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Vice President, Federal Affairs  
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<sup>6</sup> See *id.* § 1.767(a)(2).

<sup>7</sup> See *id.* § 1.767(a)(3).

*with a copy to:*

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*Counsel for Level 3 Communications, Inc.  
and its subsidiaries*

**(4)-(7) System Descriptions, Landing Points, Regulatory Status Information,  
and Cable Ownership Information<sup>8</sup>**

No response is required.<sup>9</sup>

**(8) Corporate Control and Affiliate Information<sup>10</sup>**

Level 3 Parent submits the following information specified in 47 C.F.R. §§ 63.18(h)-(k)  
and 63.18(o):

**(i) Certification Regarding Ownership, Citizenship, Principal  
Business, and Interlocking Directorates<sup>11</sup>**

Exhibit A shows the pre-consummation ownership structure of TWT Parent and TWT  
Hawaii. Exhibit B shows the pre-consummation ownership structure of Level 3 Parent. Exhibit  
D shows the post-consummation ownership structure of Level 3 Parent and TWT Hawaii.

By its signature below, Level 3 Parent certifies that TWT Hawaii will have the following  
10-percent-or-greater shareholders following the consummation of the Proposed Transaction:

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<sup>8</sup> See *id.* §§ 1.767(a)(4)-(7).

<sup>9</sup> See *id.* § 1.767(a)(11)(i).

<sup>10</sup> See *id.* § 1.767(a)(8).

<sup>11</sup> See *id.* § 63.18(h).

**tw telecom holdings inc. (“TWTH”)**

*Address:* 10475 Park Meadows Drive, Littleton, Colorado 80124

*Citizenship:* Delaware, USA

*Principal Business:* telecommunications

*Relationship:* TWTH owns 100 percent of TWT Hawaii.

**tw telecom llc f/k/a Merger Sub 2**

*Address:* 1025 Eldorado Blvd., Broomfield, Colorado 80021

*Citizenship:* Delaware, USA

*Principal Business:* telecommunications

*Relationship:* Post-consummation, tw telecom llc will own 100 percent of TWTH.

**Level 3 Communications, Inc. (“Level 3 Parent”)**

*Address:* 1025 Eldorado Blvd., Broomfield, Colorado 80021

*Citizenship:* Delaware, USA

*Principal Business:* telecommunications

*Relationship:* Level 3 Parent owns 100 percent of tw telecom llc.

**Southeastern Asset Management, Inc. (“SAM”)**

*Address:* 6410 Poplar Avenue, Suite 900, Memphis, Tennessee 38119

*Citizenship:* Tennessee, USA

*Principal Business:* investment advisory services

*Relationship/Interest:* Post-consummation, SAM will hold sole or shared voting rights for approximately 16.5 percent of outstanding shares of Level 3 Parent that are otherwise owned by other entities for whom SAM acts as an investment advisor. None of SAM’s owners holds a ten-percent-or-greater direct or indirect interest in Level 3 Parent.

**STT Crossing Ltd (“STT Crossing”)**

*Address:* Les Cascades Building, Edith Cavell Street, Port Louis, Mauritius

*Citizenship:* Mauritius

*Principal Business:* holding company

*Relationship:* Post-consummation, STT Crossing will own approximately 16.3 percent of Level 3 Parent.

**STT Communications Ltd (“STT Communications”)**

*Address:* 1 Temasek Avenue, #33-01 Millenia Tower, Singapore 039192

*Citizenship:* Singapore

*Principal Business:* information communications

*Relationship:* STT Communications owns 100 percent of STT Crossing.

**Singapore Technologies Telemedia Pte Ltd (“ST Telemedia”)**

*Address:* 1 Temasek Avenue, #33-01 Millenia Tower, Singapore 039192

*Citizenship:* Singapore

*Principal Business:* investment holding company

*Relationship:* ST Telemedia owns 100 percent of STT Communications.

**Temasek Holdings (Private) Limited (“Temasek”)**

*Address:* 60B Orchard Road #06-18, The Atrium@Orchard, Singapore 238891

*Citizenship:* Singapore

*Principal Business:* investment holding company

*Relationship:* Temasek owns 100 percent of ST Telemedia.

Temasek is wholly owned by the Government of Singapore through the Minister for Finance.

Level 3 Parent has the following interlocking directorates with foreign carriers:

- Neil Eckstein, who is Senior Vice President, Assistant General Counsel & Assistant Secretary of Level 3 Parent, is also: Senior Vice President, Assistant General Counsel & Assistant Secretary of Level 3 Communications Australia Pty Ltd; a Director, Assistant General Counsel & Assistant Secretary of PAC Panama Ltd.; Senior Vice President, Assistant General Counsel & Assistant Secretary of Global Crossing Telecommunications Canada, Ltd.; Senior Vice President, Assistant General Counsel & Assistant Secretary of Level 3 Communications Hong Kong Limited; Vice President, Assistant General Counsel & Assistant Secretary of Level 3 Communications Canada Co.; and Senior Vice President, Assistant General Counsel & Assistant Secretary of Level 3 Communications Singapore Pte. Ltd.
- Rafael Martinez Chapman, who is Senior Vice President and Treasurer of Level 3 Parent, is also: Vice President and Treasurer of Level 3 Communications Australia Pty Ltd; Vice President and Assistant Treasurer of Global Crossing Telecommunications Canada, Ltd.; Vice President and Treasurer of Level 3 Communications Hong Kong Limited; Vice

President and Assistant Treasurer of Level 3 Communications Canada Co.; and Vice President and Treasurer of Level 3 Communications Singapore Pte. Ltd.

- Eric Mortensen, who is Senior Vice President and Controller of Level 3 Parent, is also: Senior Vice President and Controller of Level 3 Communications Australia Pty Ltd; Senior Vice President and Chief Financial Officer of Global Crossing Telecommunications Canada, Ltd.; Senior Vice President and Controller of Level 3 Communications Hong Kong Limited; Senior Vice President and Chief Financial Officer of Level 3 Communications Canada Co.; and Senior Vice President and Controller of Level 3 Communications Singapore Pte. Ltd.
- Sunit Patel, who is Executive Vice President and Chief Financial Officer of Level 3 Parent, is also: Executive Vice President & Chief Financial Officer of Level 3 Communications Australia Pty Ltd; Executive Vice President of Global Crossing Telecommunications Canada, Ltd.; Executive Vice President & Chief Financial Officer of Level 3 Communications Hong Kong Limited; Executive Vice President of Level 3 Communications Canada Co.; and Executive Vice President & Chief Financial Officer of Level 3 Communications Singapore Pte. Ltd.
- Douglas Richards, who is Senior Vice President – Tax of Level 3 Parent, is also: Senior Vice President – Tax of Level 3 Communications Australia Pty Ltd; Senior Vice President of Global Crossing Telecommunications Canada, Ltd.; Senior Vice President – Tax of Level 3 Communications Hong Kong Limited; Senior Vice President of Level 3 Communications Canada Co.; and Senior Vice President – Tax of Level 3 Communications Singapore Pte. Ltd.

- John Ryan, who is Executive Vice President, Chief Legal Officer, and Secretary of Level 3 Parent, is also: a Director, Executive Vice President, Chief Legal Officer, and Secretary of Level 3 Communications Australia Pty Ltd; a Director, Senior Vice President, and Secretary of PAC Panama Ltd.; Executive Vice President, Chief Legal Officer, and Secretary of Global Crossing Telecommunications Canada, Ltd.; a Director, Executive Vice President, Chief Legal Officer, and Secretary of Level 3 Communications Hong Kong Limited; a Director of Level 3 Communications Japan K.K.; a Director and President of Level 3 Communications Canada Co.; and a Director, Executive Vice President, Chief Legal Officer, and Secretary of Level 3 Communications Singapore Pte. Ltd.
- Jeffrey Storey, who is Chief Executive Officer and President of Level 3 Parent, is also: President of Global Crossing Telecommunications Canada, Ltd.; a Director and President of Level 3 Communications Hong Kong Limited; a Director of Level 3 Communications Japan K.K.; a Director and President of Level 3 Communications Singapore Pte. Ltd.

Level 3 Parent will not acquire any foreign affiliations as a consequence of the Proposed Transaction.

**(ii) Certification Regarding Certification Regarding Foreign Carrier Status and Foreign Affiliations<sup>12</sup>**

By the signature below, Level 3 Parent certifies that it is not presently a foreign carrier and that it is presently affiliated with the foreign carriers listed in Table 1 below.

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<sup>12</sup> See *id.* §§ 1.767(a)(8), 63.18(i).

**Table 1: Level 3 Parent Foreign Affiliates**

<b>Destination Country</b>	<b>Foreign Affiliate(s)</b>
Argentina	GC SAC Argentina S.R.L.
	Level 3 Argentina S.A.
Australia	Level 3 Communications Australia Pty. Limited
Austria	Vienna branch office of Level 3 Communications (Austria) Limited
	Level 3 Communications PEC GmbH
Belgium	Level 3 Communications S.A.
	Level 3 Communications PEC België b.v.b.a.
Brazil	Level 3 Comunicacoes Brasil Ltda.
Bulgaria	Level 3 Communications EOOD
Canada	Level 3 Communications Canada Co.
	Global Crossing Telecommunications Canada Ltd.
Chile	Level 3 Chile S.A.
Colombia	Level 3 Colombia S.A.
Costa Rica	Level Three Costa Rica, SRL
Croatia	Level 3 Komunikacijske Usluge d.o.o.
Czech Republic	Level 3 Communications s.r.o.
	Level 3 PEC Czech s.r.o.
Denmark	Hellerup branch office of Level 3 Communications (Denmark) Limited
	Global Crossing PEC Danmark ApS
Ecuador	Level 3 Ecuador LVLTA S.A.
Estonia	Level 3 Communications Estonia OÜ
Finland	Level 3 Communications Oy
France	Level 3 Communications S.A.S.
Germany	Level 3 Communications GmbH
Hong Kong	Level 3 Communications Hong Kong Limited
Hungary	Level 3 Communications Távközlési Kft.
Ireland	Level 3 Communications Limited
	Level 3 Communications (Ireland) Limited
	Level 3 Communications PEC Ireland Limited
Italy	Level 3 Communications Italia s.r.l.
Japan	Level 3 Communications Japan K.K.
Luxembourg	Level 3 Communications S.a.r.l.
Mexico	Level 3 Mexico, S. de R.L. de C.V.
	Level 3 Mexico Landing, S. de R.L.
The Netherlands	Level 3 Communications B.V.
	Level 3 Communications PEC Nederland B.V.
Norway	Level 3 Communications Norway AS
	Global Crossing PEC Norge AS
Panama	Level 3 Panama Inc.

<b>Destination Country</b>	<b>Foreign Affiliate(s)</b>
	PAC Panama Ltd. (Bermuda) (Panama Branch)
	SAC Panamá S.A.
Peru	Level 3 Peru S.A.
	SAC Peru S.R.L.
	Telecom Infrastructure Hardware S.R.L.
Poland	Warsaw branch office of Level 3 Communications GmbH
	Level 3 Communications Sp. z.o.o.
Romania	Level 3 Communications S.R.L.
Russia	OOO “Level 3 Communications”
Serbia	Level 3 Communications RS d.o.o.
Singapore	Level 3 Communications Singapore Pte. Ltd.
Slovakia	Level 3 Communications spol. s.r.o.
Slovenia	Level 3 telekomunikacijske storitve d.o.o.
South Africa	Level 3 Communications South Africa (Pty) Limited
Spain	Level 3 Communications España S.A.
Sweden	Level 3 Communications AB
Switzerland	Level 3 Communications AG
	Level 3 Communications Switzerland AG
Turkey	Level 3 Communications Telekomünikasyon Hizmetleri Limited Şirketi
United Kingdom	Level 3 Communications Limited
	Level 3 Communications UK Limited
	Level 3 Communications (Servecast) Limited
	GC Pan European Crossing UK Ltd.
Ukraine	Level 3 Communications PEC Ukraine LLC
Uruguay	GC SAC Argentina S.R.L. (Uruguay Branch)
Venezuela	Level 3 Venezuela S.A.

**(iv) Certification Regarding WTO Status, Market Power, and the Effective Competitive Opportunities Test<sup>13</sup>**

By the signature below, Level 3 Parent certifies that it will not acquire any new foreign affiliations in any destination market (including any destination market where HIFN lands) as a consequence of the Proposed Transaction, as TWT Parent and TWT Hawaii have none. HIFN is a domestic submarine cable system connecting certain of the Hawaiian Islands.

<sup>13</sup> See *id.* §§ 1.767(a)(8), 63.18(k).



**(v) Certification Regarding the Anti-Drug Abuse Act of 1988<sup>14</sup>**

By its signature below, Level 3 Parent certifies that no party to this application is subject to a denial of federal benefits under Section 5301 of the Anti-Drug Abuse Act of 1988, as amended.<sup>15</sup>

**(9) Certification Regarding Compliance with Routine Conditions<sup>16</sup>**

By its signature below, Level 3 Parent certifies that it and TWT Hawaii each accept and will abide by the routine conditions specified in 47 C.F.R. § 1.767(g).

**(10) Other Information<sup>17</sup>**

**(i) Public-Interest Benefits**

Level 3 Parent's acquisition of TWT Hawaii and its interest in HIFN will serve the public interest, convenience, and necessity by joining two complementary, non-dominant providers and greatly strengthen their ability to compete with larger incumbents—particularly AT&T, Verizon Business, and CenturyLink—and also with other competitive carriers in the enterprise market. Existing and prospective customers of both companies will benefit from their combined product portfolio, targeted at helping enterprises and carriers manage their growth in an efficient and secure manner. In Hawaii, TWT Hawaii's control of capacity on HIFN will greatly strengthen Level 3's ability to compete for customers in Hawaii, providing a critical link for Level 3's local-to-global coverage there.

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<sup>14</sup> See 47 C.F.R. §§ 1.767(a)(8), 63.18(o).

<sup>15</sup> 21 U.S.C. § 862(a). Pub. L. 100-690, title V, Section 5301 (Nov. 18, 1988), 102 Stat. 4310, which related to denial of Federal benefits to drug traffickers and possessors—previously codified at 21 U.S.C. § 853(a)—was renumbered section 421 of the Controlled Substances Act by Public Law 101-647, title X, Section 1002(d)(1) (Nov. 29, 1990), 104 Stat. 4827, and has been recodified as 21 U.S.C. § 862(a). 47 C.F.R. § 63.18(o) does not reflect this recodification.

<sup>16</sup> See *id.* §§ 1.767(a)(9), (g).

<sup>17</sup> See *id.* §§ 1.767(a)(10), (g).

The Level 3 Subsidiaries' global customers will benefit from the TWT Subsidiaries' deep metropolitan footprint and buildings connected to the network, enabling a higher quality and more reliable on-net experience for customers doing business in North America. The TWT Subsidiaries' customers will benefit from the Level 3 Subsidiaries' extensive local-to-global footprint, with owned network and data centers in more than 60 countries and significant global subsea networks. Existing and prospective customers of both companies will benefit from the combined product portfolio, targeted at helping enterprises and carriers manage their growth in an efficient and secure manner. Both companies have developed strategies and commitments to delivering an excellent customer experience, which will be a key pillar of the combined company.

The Proposed Transaction raises no public-interest concerns that would warrant an extended review or transaction-specific conditions for consent (other than the Team Telecom condition requested in part V below). As noted above, Level 3 Parent will not acquire any foreign affiliations (much less foreign affiliations in a destination market for HIFN, a domestic submarine cable system) as a consequence of the Proposed Transaction. Moreover, because Level 3 Parent will issue a significant number of shares to TWT Parent's existing (and mostly U.S.) shareholders as partial consideration for the Proposed Transaction, consummation of the Proposed Transaction will significantly dilute existing aggregate foreign ownership in Level 3 Parent. In particular, consummation of the Proposed Transaction will dilute the ownership interest of STT Crossing from approximately 23.0 percent to 16.3 percent. The Applicants request that the Commission grant its consent accordingly (including the Team Telecom condition).

**(ii) Absence of Anti-Competitive Effects**

The Proposed Transaction creates no new combinations that would adversely affect competition in any geographic market for submarine cable capacity. Level 3 Parent does not presently own any submarine cable infrastructure in Hawaii, so there is no competitive overlap with TWT Hawaii and its interest in HIFN.

**III. CERTIFICATION REGARDING SERVICE TO EXECUTIVE BRANCH AGENCIES**

Pursuant to 47 C.F.R. § 1.767(j),<sup>18</sup> the Applicants have sent a complete copy of this application to the U.S. Department of State, the U.S. Department of Commerce, and the Defense Information Systems Agency. Level 3 Parent’s counsel has certified such service in the certificate of service attached to this application.

**IV. REQUEST FOR STREAMLINED PROCESSING**

The Applicants request streamlined processing pursuant to 47 C.F.R. § 1.767(k)(1), as none of the Applicants is a foreign carrier, or affiliated with a foreign carrier, in any of HIFN’s destination markets. The application raises no competition or public interest concerns that would merit consideration outside the Commission’s streamlined review process.

**V. TEAM TELECOM CONDITION**

Level 3 Parent commits to extend the national security, law enforcement, and public safety commitments made in the Level 3 NSA to all TWT Parent subsidiaries (including TWT Hawaii) upon consummation of the Proposed Transaction. Consummation of the Proposed Transaction will dilute Level 3 Parent’s existing foreign ownership and will not add international network infrastructure to Level 3’s existing network infrastructure. The Applicants have already consulted with Team Telecom in this matter.

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<sup>18</sup> See 47 C.F.R. § 1.767(j).

Consistent with Section 5.2 of the Level 3 NSA,<sup>19</sup> the Applicants therefore request that the Commission condition its consent to the Proposed Transaction upon Level 3 Parent's compliance with the following condition extending to TWT Parent's businesses and subsidiaries (including TWT Hawaii) the obligations in the Level 3 NSA:

IT IS FURTHER ORDERED that, pursuant to sections 4(i)–(j), 214, 309, and 310(b) and (d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i)–(j), 214, 309, 310(b), 310(d), that grant of the applications and associated petition for declaratory ruling IS CONDITIONED UPON compliance by Level 3 with the provisions of the Agreement between the Department of Justice, and the Federal Bureau of Investigation, the Department of Defense, and the Department of Homeland Security, dated September 26, 2011, which is publicly available on the Commission's website.

The same condition already exists in the 2011 consent to Level 3 Parent's acquisition of Global Crossing Ltd.<sup>20</sup>

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<sup>19</sup> See Level 3 NSA § 5.2 (stating that “Level 3 agrees that in any application or petition to the FCC for licensing or other authority related to Domestic Communications Infrastructure or to any Cable System filed with or granted by the FCC after the execution of this Agreement, except with respect to *pro forma* assignments or *pro forma* transfers of control, Level 3 shall request that the FCC condition the grant of such licensing or other authority on compliance with the terms of this Agreement.”).

<sup>20</sup> *Level 3-GCL Order*, 26 FCC Rcd. at 14,081 ¶ 68.

## CONCLUSION

The Applicants respectfully request that the Commission grant consent, pursuant to streamlined processing, for the transfer of control from TWT Parent to Level 3 Parent of TWT Hawaii's joint interest in the HIFN cable landing license.

Respectfully submitted,

**tw telecom inc.**



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*Counsel for tw telecom inc.  
and tw telecom of hawaii l.p.*

**Level 3 Communications, Inc.**



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*Counsel for Level 3 Communications, Inc.  
and its subsidiaries*

7 July 2014

Attachments

## CERTIFICATE OF SERVICE

I, Kent D. Bressie, hereby certify that consistent with 47 C.F.R. § 1.767(j), I have served copies of the foregoing application for consent to transfer control of cable landing licenses by hand- or overnight delivery on this 7th day of July 2014, to the following:

Ambassador Daniel Sepulveda  
U.S. Coordinator  
Int'l Communications & Information Policy  
Bureau of Economic and Business Affairs  
U.S. DEPARTMENT OF STATE  
EEB/CIP: Room 4826  
2201 C Street, N.W.  
Washington, D.C. 20520-5818

Kathy Smith  
Chief Counsel  
U.S. DEPARTMENT OF COMMERCE/NTIA  
14th Street and Constitution Avenue, N.W.  
Room 4713  
Washington, D.C. 20230

Robert Gorman  
General Counsel  
DEFENSE INFORMATION SYSTEMS AGENCY  
6910 Cooper Avenue  
Fort Meade, Maryland 20755

A handwritten signature in black ink, appearing to read "Kent D. Bressie", is written over a horizontal line. The signature is fluid and cursive.

Kent Bressie

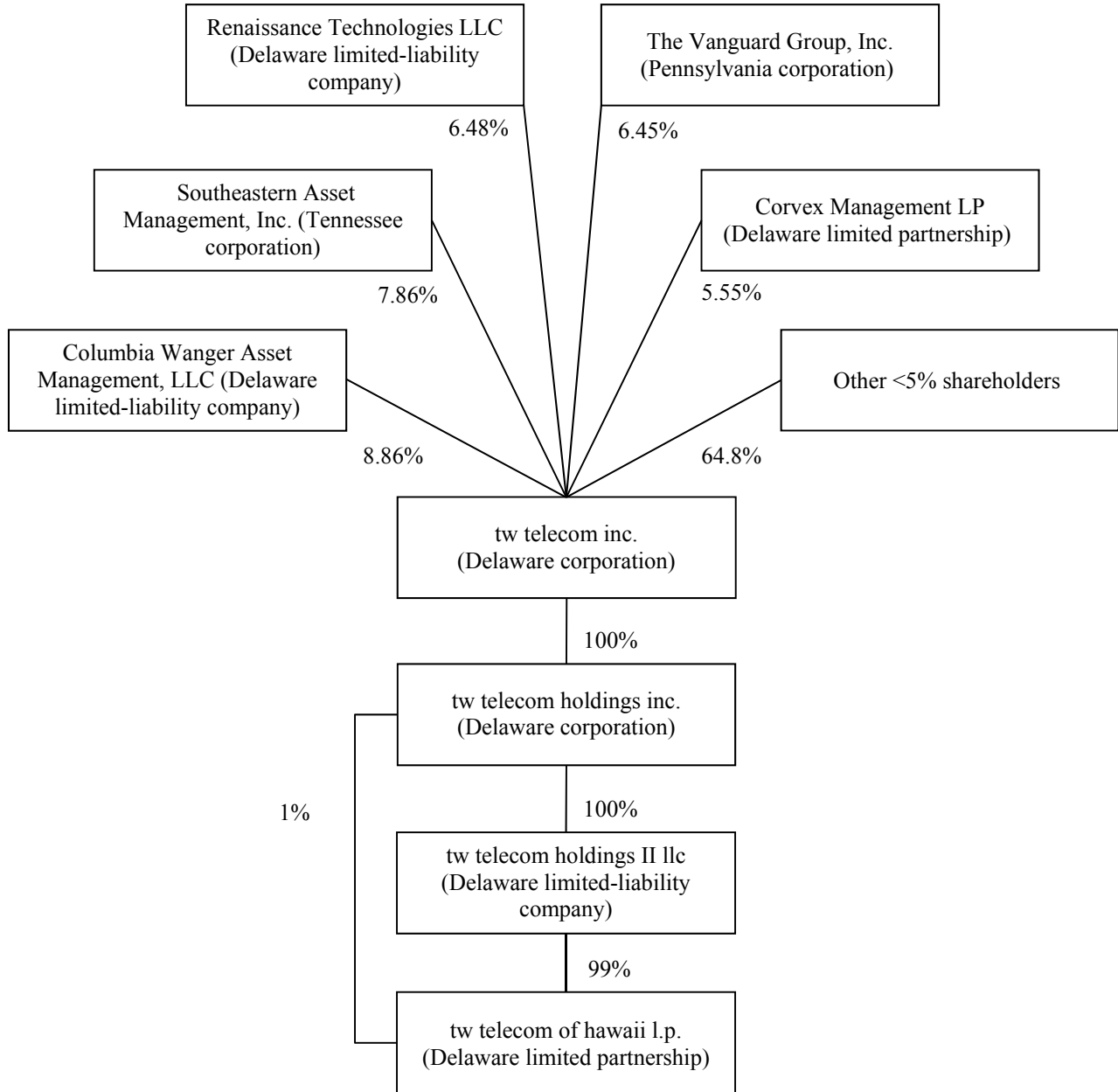
## **LIST OF EXHIBITS**

- Exhibit A:** Pre-Consummation Ownership Structure of tw telecom inc. and tw telecom of hawaii l.p.
- Exhibit B:** Pre-Consummation Ownership Structure of Level 3 Communications, Inc.
- Exhibit C:** Ownership Structure of the Relevant U.S. Operating Subsidiaries of Level 3 Communications, Inc.
- Exhibit D:** Post-Consummation Ownership Structure of Level 3 Communications, Inc., and tw telecom of hawaii l.p.



**Exhibit A:**

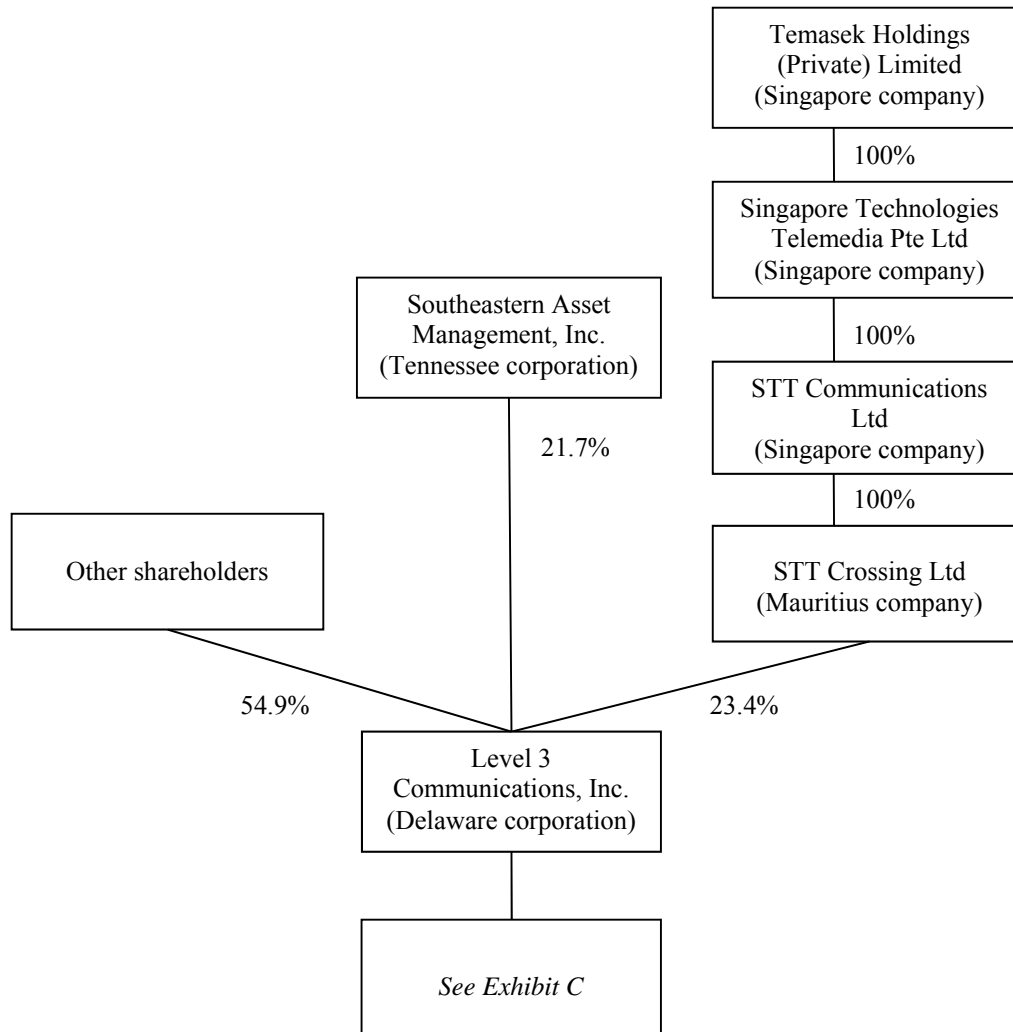
**Pre-Consummation Ownership Structure of tw telecom, inc., and tw telecom of hawaii l.p.<sup>1</sup>**



<sup>1</sup> This information is based on Form 13F filings by TWT Parent shareholders on March 31, 2014, with the U.S. Securities and Exchange Commission.

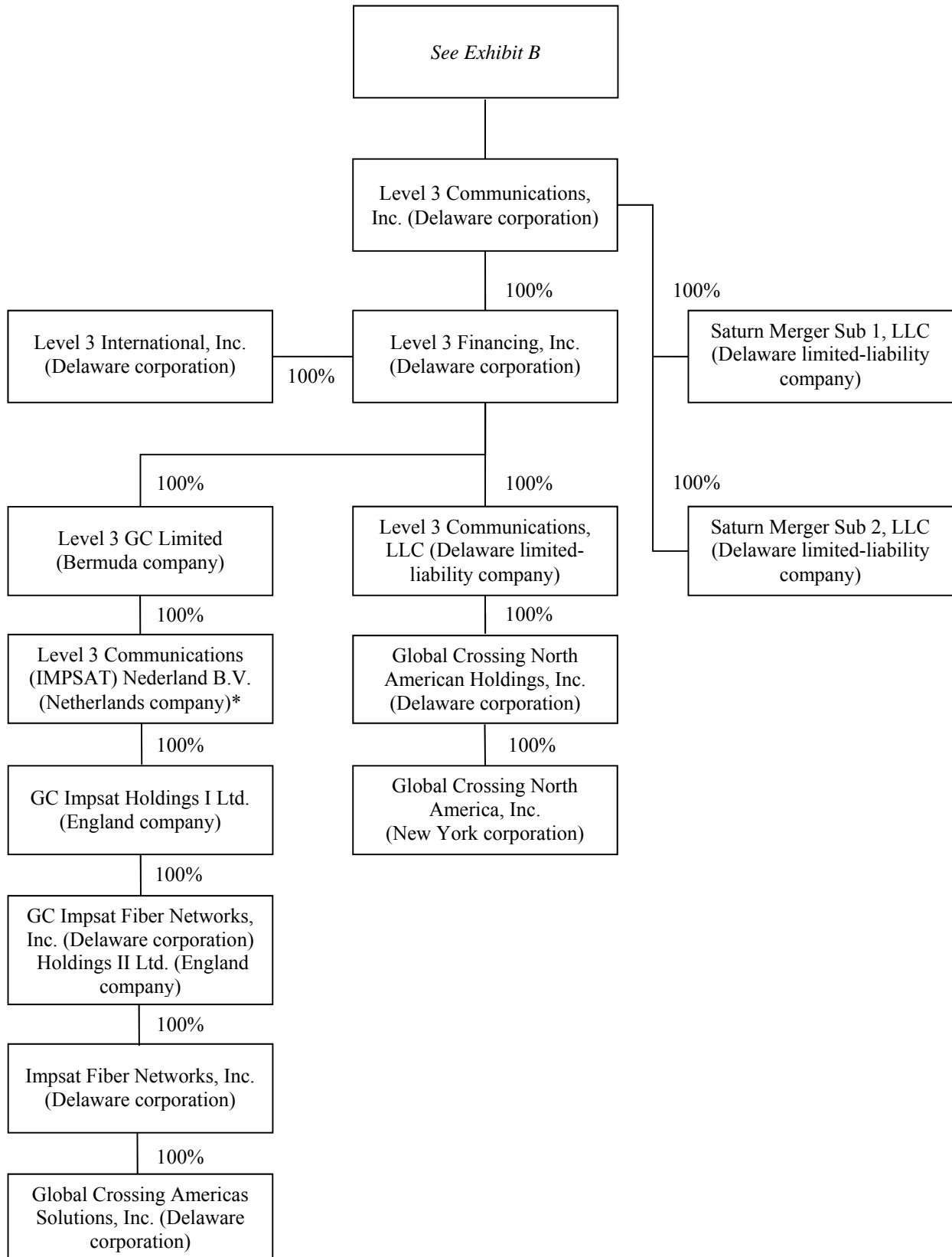
**Exhibit B:**

**Pre-Consummation Ownership Structure of Level 3 Communications, Inc.**



**Exhibit C:**

**Ownership Structure of Level 3 Communications Inc. and  
Its Relevant U.S. Operating Subsidiaries**



**Exhibit D:**

**Post-Consummation Ownership Structure of  
Level 3 Communications, Inc., and tw telecom of hawaii l.p.**

