

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

In the Matter of the Joint Application of	)	Application No.17-03-016
	)	(Filed: March 22, 2017)
Broadwing Communications, LLC (U-5525-C);	)	
Global Crossing Local Services, Inc. (U-5685-	)	
C); Global Crossing Telecommunications, Inc.	)	
(U-5005-C); IP Networks, Inc. (U-6362-C);	)	
Level 3 Communications, LLC (U-5941-C);	)	
Level 3 Telecom of California, LP (U-5358-C);	)	
WilTel Communications, LLC (U-6146-C);	)	
	)	
and	)	
	)	
Level 3 Communications, Inc., a Delaware	)	
Corporation;	)	
	)	
and	)	
	)	
CenturyLink, Inc., a Louisiana Corporation,	)	
	)	
_____	)	
For Approval of Transfer of Control of the	)	
Level 3 Operating Entities Pursuant to	)	
California Public Utilities Code Section 854(a)	)	
_____	)	

**JOINT MOTION OF  
THE OFFICE OF RATEPAYER ADVOCATES, THE UTILITY REFORM NETWORK,  
THE GREENLINING INSTITUTE AND THE JOINT APPLICANTS  
FOR APPROVAL OF SETTLEMENT**

[PUBLIC COPY. EXHIBIT B FILED UNDER SEAL]

Christine Mailloux  
Staff Attorney  
The Utility Reform Network  
1620 Fifth Avenue, Suite 810  
San Diego, CA 92101  
Tele: 619.398.3680  
Email: [cmailloux@turn.org](mailto:cmailloux@turn.org)

Paul Goodman  
Senior Legal Counsel  
The Greenlining Institute  
360 14<sup>th</sup> St.  
Oakland, CA 94612  
Tele: 510.898.2053  
Email: [paulg@greenlining.com](mailto:paulg@greenlining.com)

*On Behalf of The Utility Reform Network*

*On Behalf of The Greenlining Institute*

Candace Choe  
Attorney for the Office of Ratepayer Advocates  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
Tele: 415.703.5651  
E-mail: [candace.choe@cpuc.ca.gov](mailto:candace.choe@cpuc.ca.gov)

*On Behalf of The Office of Ratepayer Advocates*

Kristie Ince  
Level 3 Communications  
Vice President State Public Policy  
1025 Eldorado Blvd.  
Broomfield, CO 80021  
Tele: 972.455.7833  
Email: [kristie.ince@level3.com](mailto:kristie.ince@level3.com)

Jeffrey L. Lindsey  
CenturyLink, Inc.  
VP Regional Regulatory and Legislative Affairs  
20 East Thomas Road  
Phoenix, AZ 85012  
Tele: 602.630.1942  
Email: [jeffrey.l.lindsey@centurylink.com](mailto:jeffrey.l.lindsey@centurylink.com)

Catherine Wang, Esq.  
Danielle Burt, Esq.  
Morgan, Lewis & Bockius LLP  
1111 Pennsylvania Ave., N.W.  
Washington, DC 20006  
Tele 202.739.3000  
Fax: 202.739.3001  
E-mail: [catherine.wang@morganlewis.com](mailto:catherine.wang@morganlewis.com)  
[danielle.burt@morganlewis.com](mailto:danielle.burt@morganlewis.com)

Norman G. Curtright  
Senior Counsel  
CenturyLink, Inc.  
20 East Thomas Road  
Phoenix, AZ 85012  
Tele: 602.630.2187  
Email: [norm.curtright@centurylink.com](mailto:norm.curtright@centurylink.com)

Anita Taff-Rice  
iCommLaw  
1547 Palos Verdes, #298  
Walnut Creek, CA 94597  
Tele: 415.699.7885  
Email: [anita@icommlaw.com](mailto:anita@icommlaw.com)

Leon M. Bloomfield  
Law Offices of Leon M. Bloomfield  
1901 Harrison St., Suite 1400  
Oakland, CA 94610  
Tele: 510.625.1164  
E-mail: [lmb@wblaw.net](mailto:lmb@wblaw.net)

*On Behalf of Level 3 Communications, Inc. and  
the Level 3 Operating Entities*

*On behalf of CenturyLink, Inc. and the  
CenturyLink Operating Entities*

Dated: June 30, 2017

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

In the Matter of the Joint Application of	)	Application No.17-03-016
	)	(Filed: March 22, 2017)
Broadwing Communications, LLC (U-5525-C);	)	
Global Crossing Local Services, Inc. (U-5685-	)	
C); Global Crossing Telecommunications, Inc.	)	
(U-5005-C); IP Networks, Inc. (U-6362-C);	)	
Level 3 Communications, LLC (U-5941-C);	)	
Level 3 Telecom of California, LP (U-5358-C);	)	
WilTel Communications, LLC (U-6146-C);	)	
	)	
and	)	
	)	
Level 3 Communications, Inc., a Delaware	)	
Corporation;	)	
	)	
and	)	
	)	
CenturyLink, Inc., a Louisiana Corporation,	)	
	)	
<hr/>	)	
For Approval of Transfer of Control of the	)	
Level 3 Operating Entities Pursuant to	)	
California Public Utilities Code Section 854(a)	)	
<hr/>	)	

**JOINT MOTION OF THE OFFICE OF RATEPAYER ADVOCATES, THE UTILITY  
REFORM NETWORK, THE GREENLINING INSTITUTE AND THE JOINT  
APPLICANTS FOR APPROVAL OF SETTLEMENT**

**I. INTRODUCTION**

Pursuant to Rule 12.1 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure ("Rules"), (a) Broadwing Communications, LLC (U-5525-C), Global Crossing Local Services, Inc. (U-5685-C), Global Crossing Telecommunications, Inc. (U-5005-C), IP Networks, Inc. (U-6362-C), Level 3 Communications, LLC (U-5941-C), Level 3 Telecom of California, LP (U-5358-C), and WilTel Communications, LLC (U-6146-C) (collectively the "Level 3 Operating Entities"); CenturyLink, Inc., the post-merger ultimate

parent of the Level 3 Operating Companies; and Level 3 Communications, Inc., the current ultimate parent of the Level 3 Operating Entities (all applicants collectively referred to as the “Joint Applicants”), and (b) the Office of Ratepayers Advocates (“ORA”), The Utility Reform Network (“TURN”) and the Greenlining Institute (“Greenlining”) (collectively referred to as the “Consumer Advocates”), submit this Joint Motion for Approval of Settlement (“Motion”).

The Joint Applicants and the Consumer Advocates, which are collectively referred to as the “Settling Parties” in this Motion, respectfully request that the Commission adopt the Settlement Agreement<sup>1</sup> executed by the Settling Parties as soon as practicable, but no later than September 14, 2017 to ensure the Transaction and the attendant public interest benefits are realized. In requesting this approval date, the Settling Parties are mindful that motions to approve settlements do not ordinarily suggest deadlines for Commission approval. However, as allowed for in the Commission’s Rules of Practice and Procedure (“Rule”) 12.1(c), the Settling Parties have proposed a date for approval of the Settlement due to their concern that any delay beyond the targeted September 30, 2017 closing date will delay and diminish the benefits of the proposed Transaction and the commitments made in the Settlement.<sup>2</sup>

Therefore, the Settling Parties are submitting a contemporaneous Motion for Expedited Treatment and Order Shortening Time requesting that responses, if any, on the proposed settlement be submitted within fourteen (14) days of the filing of this Motion, instead of the thirty (30) days provided by Rule 12.2, and replies, if any, be submitted within five (5) days instead of the fifteen (15) provided by the Rule. Thus, responses and replies to the Motion and Settlement Agreement would be submitted no later than July 20, 2017. This shortened time will still allow ample time for interested parties to submit their views on this Motion and Settlement

---

<sup>1</sup> A copy of the Settlement Agreement is attached hereto as Exhibit A.

<sup>2</sup> See e.g., Rule of Practice and Procedure 12.1(c).

Agreement. Shortened time for comments is especially appropriate because the only other active party to the proceeding, the California Emerging Technologies Fund (“CETF”), was provided information regarding the terms in the Settlement Agreement during the Settlement Conference held June 22, 2017, when the issues were discussed at some length. Based on that discussion, and the discussion during the Status Conference held June 26, 2017, the Settling Parties believe that CETF’s sole issue could be addressed through responses to this Motion submitted on a shortened schedule. The proposed schedule is necessary in the view of the Settling Parties in order to allow for the timely resolution of this proceeding. (See Section V, *infra*.)

As noted below, the Settlement Agreement reflects the negotiations of the Settling Parties to address all concerns raised by the Consumer Advocates in this proceeding. This Motion and the associated Settlement Agreement are the end result of months of discussions and the exchange of information among the Settling Parties in an effort to resolve their differences and otherwise address the concerns raised by the Consumer Advocates in their Joint Protest (and related issues raised by CETF as discussed below). This Settlement Agreement reflects the conclusion of prominent consumer organizations and the Commission’s own consumer protection staff, as well as the Joint Applicants, that the commitments ensure that the Settlement Agreement is reasonable in light of the whole record, consistent with the law, and is in the public interest. Thus, the Settlement Agreement meets the standard set forth in Rule 12.1(d), and the Settling Parties respectfully request that it be adopted by the Commission.

Although the Joint Applicants have not reached a settlement with CETF, the Settling Parties note that the Settlement Agreement addresses the primary concerns of CETF as set forth in its Protest and provides CETF with an opportunity to participate in the process set forth in Commitment 1 regarding capital expenditures and facility expansion. The Settling Parties

further submit that they do not believe a hearing or a prehearing conference is needed as part of this review, and expressly waive any right for such proceedings in order to create a viable opportunity for this proceeding to be resolved by the anticipated September 30, 2017 closing date for the transaction. (See Sections VI and VII, *infra*.)

## II. BACKGROUND

On March 22, 2017, the Joint Applicants filed the above-referenced Application seeking approval of the transfer of control of the Level 3 Operating Entities – each of which is a non-dominant carrier that provides service exclusively to wholesale and enterprise customers - from Level 3 to CenturyLink. The Consumer Advocates filed a Joint Protest on May 5, 2017 setting forth their areas of concern. CETF also filed a protest at that time (the “CETF Protest”) which is discussed in more detail in Section V below. The Joint Applicants filed a consolidated reply to the Joint Protest and the CETF Protest on May 15, 2017.

The Settling Parties have been engaged in discussions regarding the underlying transaction for several months now. In that process, the Joint Applicants have provided additional information regarding the issues raised by the Consumer Advocates including but not limited to the confidential materials submitted with the Joint Application.<sup>3</sup> In addition, the Settling Parties have had numerous discussions regarding the concerns raised by the Joint Protest as well as the information provided by the Joint Applicants. The Joint Applicants, the Consumer Advocates, and CETF (the only other party to this proceeding) also participated in a properly noticed all-party Settlement Conference on June 22, 2017 pursuant to Rule 12.1(b).<sup>4</sup> These

---

<sup>3</sup> Copies of the materials requested by the Consumer Advocates and provided by the Joint Applicants (in addition to the confidential exhibits to the Joint Application itself) pursuant to Commission Rule 12.6 are attached hereto as Confidential Exhibit B.

<sup>4</sup> As noted below, the Joint Applicants note that no settlement has been reached with CETF as of the filing of this motion.

exchanges, including the Rule 12 Settlement Conference, have formed the basis for the Settlement Agreement. Based on their discussions and exchange of information, the Settling Parties concluded the settlement is in the public interest and therefore respectfully submit this joint request for approval.

### **III. SUMMARY OF SETTLEMENT AGREEMENT**

As a result of their negotiations and mutual compromises, the Settling Parties have resolved all of the outstanding issues raised by the Consumer Advocates by, among other things, committing to:

- Spend at least \$323 million in capital expenditures in California over the next three years, with a stated aspirational goal of investing the committed amount in two years;
- Participate in a collaborative process for identifying and selecting mutually agreeable locations where the companies will invest in new middle mile infrastructure and new points of presence as part of their total California capital expenditures for calendar years 2018-2020, focusing on locations where unserved/underserved communities exist;
- Preserve the terms of existing customer contracts;
- Create and submit granular reports on synergy savings, broadband projects, employment levels, and network outages; and
- Strive to meet diversity procurement goals that exceed those set forth in General Order 156.

The full details of the Settling Parties' agreement are set forth in the attached Settlement Agreement.

Based on these commitments, the Consumer Advocates agree that the terms of the Settlement Agreement resolve their issues and concerns raised in the Joint Protest. The obligations in the Settlement Agreement will commence after the Joint Applicants' receipt of all

regulatory approvals, including Commission approval of the Application for transfer of control, and upon the closing of the underlying Transaction.

**IV. THE SETTLEMENT AGREEMENT IS REASONABLE IN LIGHT OF THE WHOLE RECORD, IS CONSISTENT WITH THE LAW, AND IS IN THE PUBLIC INTEREST**

To obtain Commission approval of a settlement, Rule 12.1(d) requires that the parties demonstrate that the settlement is reasonable in light of the whole record, consistent with law, and in the public interest. In evaluating settlements, the Commission has recognized a strong public policy benefit in California favoring settlements and avoiding litigation.<sup>5</sup> The Settlement Agreement satisfies all three requirements of Rule 12.1(d) and should be adopted.

First, the terms of the Settlement Agreement are reasonable in light of the whole record. The Settlement Agreement reflects the synergies discussed in the Joint Application and resolves multiple concerns related to the requested transfer of control and the underlying transaction between CenturyLink and Level 3 that were raised by ORA, TURN, and/or Greenlining in this proceeding. For example, as discussed above, this Settlement Agreement provides concrete benefits to California consumers in the form of improved service quality, facility expansion and certainty for enterprise and wholesale customers with existing contracts. These terms go beyond the discussion found in the Joint Application. The compromises represented by the terms of the Settlement Agreement are reasonable in light of the information provided by the Joint Applicants as part of the Application and in the context of settlement discussions.

Second, the Settlement Agreement is consistent with applicable law. The Settling Parties did not come to consensus on what particular criteria or commitments, if any, are *required* by

---

<sup>5</sup> *Re Pacific Bell*, 45 CPUC 2d 158, 169, D.92-07-076 (July 22, 1992).



applicable law.<sup>6</sup> However, without waiving their particular positions on the legal issues, they do agree that the representations made by the Applicants as supplemented by the commitments memorialized in the Settlement Agreement satisfy the public interest standard. Chief among these benefits is the fact that the Joint Applicants have committed to capital expenditures of at least \$323 million over the next three years that will be coupled with a collaborative process for identifying and selecting mutually agreeable locations where the companies will invest in new middle mile infrastructure and new points of presence as part of their total California capital expenditures for those years with a focus on locations where unserved/underserved communities exist. The Commission – and the Consumer Advocates - will also receive significant status updates and information regarding the combined company’s operations in California regarding outages, diversity procurement and capital expenditures. Moreover, the Settlement Agreement contains no terms that bind the Commission in the future or violate existing laws.<sup>7</sup>

Third, as the above discussion confirms, the public interest supports adoption of the Settlement Agreement. As an initial matter, the Commission has a long-standing policy of encouraging settlements. More importantly, however, the conditions set forth in the Settlement Agreement address the concerns raised by the Consumer Advocates in this proceeding in a manner that is mutually acceptable to the Settling Parties. This Commission has recognized the important role of wholesale service providers to ensuring access to robust communications

---

<sup>6</sup> See e.g., Joint Protest at p. 3. See also Joint Applicants’ Consolidated Reply to Protests (May 15, 2017) at Section IV.

<sup>7</sup> See *In re Application of Southern Cal. Gas Co et al.*, Decision 09-10-036, 2009 Cal. PUC Lexis 548 at \*23 (Commission finds “...the settlement to be consistent with the law as it contains no terms that bind the Commission in the future or violate existing laws.”) Although the Settlement Agreement obligates the Joint Applicants to provide certain information to the Communications Division and to otherwise meet with the Communications Division to discuss projects for unserved and underserved areas, it does not obligate the Communications Division to take any particular action or otherwise participate unless it chooses to do so.

capability in the California telecommunications marketplace.<sup>8</sup> Settling Parties believe that the commitments and synergies described in the Joint Application, as supplemented with this Settlement Agreement, will bring direct and indirect public interest benefits to a wide range of California consumers. Moreover, the adoption of the Settlement will allow for the timely consummation of the underlying Transaction.<sup>9</sup>

## V. THE CETF PROTEST

The Settling Parties further acknowledge that while the Settlement Agreement is a settlement of all issues raised by the Consumer Advocates in their Joint Protest, it represents a partial settlement with regard to all parties in the proceeding. As mentioned above, CETF filed a protest of the Application. Citing settlement commitments in recent mergers involving ILECs and/or entities that serve residential end users,<sup>10</sup> CETF argues in its protest that the Commission should require affirmative commitments to build out broadband facilities.<sup>11</sup> CETF suggested in its protest that the Joint Applicants could “make affirmative public interest benefits proposals to provide investment in middle mile access infrastructure to last mile Internet Service Providers who desire to provide service to underserved and unserved areas in the State”<sup>12</sup> and further that entities like Joint Applicants should make “voluntary commitments” to help increase broadband facilities in California as part of merger transactions.<sup>13</sup>

The Settling Parties believe that the instant Settlement Agreement addresses these

---

<sup>8</sup> See, D. 16-12-025 (I.15-11-007)

<sup>9</sup> See also, Joint Applicants’ FCC Public Interest Statement, Exhibit B, pp. B-1 through B-21. The Public Interest Statement, including the referenced Exhibit B, can be found at:

<https://ecfsapi.fcc.gov/file/12131078120341/CenturyLink-Level%203%202014%20Application.pdf>.

<sup>10</sup> The Joint Applicants are neither ILECs nor entities that serve residential users.

<sup>11</sup> CETF Protest at pp. 5, 12; see also Joint Applicant’s Consolidated Reply at pp. 14-16.

<sup>12</sup> *Id.*, at p. 8.

<sup>13</sup> *Id.*, at pp. 8-9.

concerns by committing to a concrete amount of capital expenditures in California over three years that includes a process for identifying and selecting projects in underserved and unserved areas. In recognition of the Joint Applicants' need to meet the demands of new and existing customers, and the challenges associated with trying to predetermine what network projects might be feasible, this collaborative process will provide the Consumer Advocates, CETF (as the only other protesting party) and the Communications Division a right to participate. The process is designed to identify mutually agreeable locations where the companies will invest in new middle mile infrastructure and new points of presence as part of their total California capital expenditures. The focus of those efforts will be on locations where unserved/underserved communities exist.

In particular, the Settlement Agreement provides a role for *all* Protestors to this proceeding, *including CETF*, to participate in workshops and discuss possible locations for expansion. In the unlikely event the Settling Parties cannot agree on an appropriate project(s), the Settlement Agreement further provides that the Joint Applicants will submit a Tier 2 Advice Letter setting forth an appropriate project for review, comment and ultimately, approval. In that way, the Settlement Agreement is a concrete commitment that will be enforceable by the Commission under the terms of the Settlement and the Commission's general authority to enforce compliance with its orders.

The Settling Parties agree that it would unduly limit options for identifying appropriate projects to try to predetermine a specific list of projects or criteria in light of the difficulties of predicting what contingencies and consumer needs will materialize after the transfer of control. The Settling Parties submit that attempting to identify projects without the benefit of analysis and granular data would likely result in a flawed outcome. The thoughtful deliberations with all

protestors and the Communications Division anticipated by the Settlement, which is otherwise enforceable by the Commission, increases the likelihood that the public interest will be served.

The other central, and related, themes of CETF's protest involved its suggestion that the Joint Applicants "could agree to participate in specific public private partnerships with entities that provide broadband service to anchor institutions such as schools, community colleges, universities, libraries, emergency responders, government agencies, public health care providers, and non-profit, community-based organizations." It also expressed concern with the possible effect of the Transaction on pricing for services provided by Level 3 to the Corporation for Education Network Initiatives in California ("CENIC"), a non-profit organization that operates a high-capacity network that serves the broader California school system.<sup>14</sup> While not addressed directly by the Settlement Agreement, the Joint Applicants note that a Level 3 operating company has recently reached agreement on a long-term contract renewal with CENIC which it believes addresses these issues and should provide a level of continuity under this merger.

Thus, regardless of the inability of the Joint Applicants and CETF to reach a settlement, the Settling Parties respectfully submit that adoption of the Settlement Agreement addresses the primary concerns raised by CETF, is in the public interest and they request that the Commission grant this Motion and approve the proposed transfer of control.<sup>15</sup>

---

<sup>14</sup> CENIC's network serves not only the California public school system but also the California Community Colleges, the California State University system, California's Public Libraries, the University of California system, Stanford, Caltech, and USC. *See* CETF Protest at pp. 8-9, 17.

<sup>15</sup> The Settling Parties acknowledge that two, related, lawsuits have recently been filed against CenturyLink; one in Arizona and one in the Southern District of California. Although responses to those complaints have not yet been filed, the Joint Applicants note that they intend to fully examine these matters and take all such allegations seriously. The Settling Parties are not aware of any such complaints at the Commission and do not believe that these civil complaints impact their analysis or their support for this Motion or this Settlement in any way. The Commission, Joint Applicants, and Consumer Advocates will of course be able to continue to monitor all such matters as they are in the public record.

## VI. REQUEST FOR EXPEDITED APPROVAL

As noted in the Joint Application and in the Joint Reply to the Protests, the parties to the transaction have committed to closing the merger nationwide by the September 30, 2017.<sup>16</sup> The Joint Applicants reiterate that the consequences of any delay in the approval of this proposed Settlement Agreement, or the underlying Application for transfer of control, are significant. As noted previously, the closing deadline in the Merger Agreement requires completion of a number of regulatory and operational steps prior to September 30, 2017, including closing on financing agreements. Any delay in approval could result in, among other things, substantial financing costs (ticking fees). In addition, the uncertainty caused by any potential delay in closing further delays the material benefits of the Transaction for employees, customers, vendors that rely on the Joint Applicants and the markets both in California and beyond. The inability to close also delays the implementation of the commitments made per the Settlement Agreement as well as those which are inherent to the merger itself.

To date, the Joint Applicants have received the necessary approvals/clearances from 20 state commissions (including the District of Columbia) with several others expected to follow shortly. The Joint Applicants also understand that the FCC/DOJ review is proceeding in a timely manner.<sup>17</sup> At this point, the Joint Applicants expect to have regulatory approval from the FCC and all other states by the expected close date of September 30, 2017.

The Joint Applicants and the Consumer Advocates note that they have been working

---

<sup>16</sup> See Joint Application at Section VII; see Joint Reply at Section X. Please note that the Consumer Advocates do not join in the first two paragraphs of Section V as these are representations based on information exclusively available to the Joint Applicants.

<sup>17</sup> The Joint Applicants do not expect the FCC's recent pause of the 180-day merger "shot clock" to impeded this timetable and are continuing to communicate with the FCC and the DOJ and in doing so are working toward securing the necessary federal regulatory approvals in time to close before the end of 3Q-2017.

diligently since January of this year, when the Joint Applicants first filed advice letters seeking approval of the transfers of control.<sup>18</sup> Parties are filing this Motion as soon as practicable given the complicated nature of these multi-party negotiations. Settling Parties will file a separate Motion for Order Shortening Time contemporaneously with this Motion.

Accordingly, pursuant to Rule 12.1(c), the Joint Applicants and the Consumer Advocates request that this Motion be approved – in conjunction with the issuance of a proposed decision on the Joint Application -as soon as practicable, but no later than August 14, 2017 so that the matter can be placed on the September 14, 2017 Commission Agenda and the underlying transaction can proceed accordingly.<sup>19</sup>

## **VII. WAIVER OF HEARINGS AND PREHEARING CONFERENCE**

As a general rule, the Commission Rules require a prehearing conference in any proceeding unless it is preliminarily determined that a hearing is not needed or, in the case of an application, where no protests are filed.<sup>20</sup> The preliminary determination of whether a hearing is required is made by resolution (which is not appealable) that is then to be incorporated into a scoping memo (which is appealable)<sup>21</sup> The Rules further require that a prehearing conference is to be set within 45 to 60 days after the initiation of the proceeding or as soon as practicable after

---

<sup>18</sup> The Joint Applicants note that on January 17, 2017, each of the Level 3 Operating Entities filed an advice letter to obtain the requisite 854(a) approval per the process established by the Commission in D.04-10-038 and utilized since by other carriers in the contexts of similar requests for approval of transfers of control. The advice letters were protested jointly by ORA, TURN and Greenlining and, before any response to the protest could be filed, the advice letters were rejected by the Communications Division.

<sup>19</sup>The Joint Applicants respectfully note that as a practical matter, the Commission approval is needed at the September 14, 2017 meeting because the Commission's second September meeting falls on September 28, 2017, only one business day prior to the anticipated Transaction closing date.

<sup>20</sup> See Commission Rule of Practice and Procedure 7.2 (b).

<sup>21</sup> *Id.* at Rule 7.1(a).

assignment of the case.<sup>22</sup>

In this case, the preliminary determination that a hearing was needed has not yet been reduced to a scoping memo and thus has not been subject to appeal. Moreover, the ALJ has recently indicated in a June 26<sup>th</sup> telephonic status conference that earliest date available for a prehearing conference is August 24, 2017, more than five months after the Joint Application was filed. However, as reflected by the fact the Consumer Advocates and the Joint Applicants have reached a settlement, the Settling Parties respectfully suggest that neither a hearing nor a prehearing conference is necessary in this case even if this is not an all-party settlement. To the extent CETF decides to file a response objecting to this Motion, or otherwise assert that the concerns identified in its protest have not been adequately addressed, their threshold issues turn on the question of the appropriate legal standard for review of this transaction. Accordingly, the Settling Parties suggest that they can be adequately addressed in pleadings and do not require either a hearing or a prehearing conference. To that end, the Settling Parties request that any hearing or prehearing conference be waived<sup>23</sup> and that to the extent there are outstanding issues, they be resolved in the context of responding to this Motion.

The Settling Parties are committed to working with the Commission and any other party

---

<sup>22</sup> *Id.*, at Rule 7.2(a).

<sup>23</sup> See e.g., *Application of Pacific Gas and Electric Company, For authorization to Establish a Rate Adjustment Procedure for its Diablo Canyon Nuclear Power Plant*, Decision No. 95-05-043, 1995 Cal. PUC LEXIS 559 \* 32 (“Neither a prehearing conference nor a public hearing is needed to understand the terms and implications of the proposed settlement.”); see also *Joint Application of Lodi Gas Storage, L.L.C. (U912G), Buckeye Gas Storage LLC, Buckeye Partners, L.P., BIF II CalGas (Delaware) LLC and Brookfield Infrastructure Fund II for Expedited Ex Parte Authorization to Transfer Control of Lodi Gas Storage, L.L.C. to BIF II CalGas (Delaware) LLC Pursuant to Public Utilities Code Section 854(a)*, D.14.-12-013, 2014 Cal. PUC LEXIS 587 \* 19 (“...the Office of Ratepayer Advocates supports granting the proposed transfer of ownership control of Lodi Gas Storage, with no need for a prehearing conference, or further hearings, and with a waiver of comment period on the Proposed Decision.”).

to ensure that this matter can be resolved in a timely manner and that the public benefits attendant with this Settlement can be realized.

### VIII. CONCLUSION

Based on the foregoing, the Settling Parties respectfully request that the Commission grant this Joint Motion and adopt the Settlement Agreement in its entirety (on an expedited basis) as a resolution of the issues raised by protestors, including TURN, ORA, and Greenlining, in the proceeding as set forth above.

Signed and dated this 30<sup>th</sup> day of June, 2017.

Respectfully submitted,

\_\_\_\_\_  
/s/  
Christine Mailloux  
Staff Attorney  
The Utility Reform Network  
1620 Fifth Avenue, Suite 810  
San Diego, CA 92101  
Tele: 619.398.3680  
Email: [cmailloux@turn.org](mailto:cmailloux@turn.org)

\_\_\_\_\_  
/s/  
Paul Goodman  
Senior Legal Counsel  
The Greenlining Institute  
360 14<sup>th</sup> St.  
Oakland, CA 94612  
Tele: 510.898.2053  
Email: [paulg@greenlining.com](mailto:paulg@greenlining.com)

*On Behalf of The Utility Reform Network*

*On Behalf of The Greenlining Institute*

\_\_\_\_\_  
/s/  
Candace Choe  
Attorney for the Office of Ratepayer Advocates  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
Tele: 415.703 5651 E-mail: Candace.choe  
@cpuc.ca.gov

*On Behalf of The Office of Ratepayer Advocates*



/s/

---

Kristie Ince  
Level 3 Communications  
Vice President State Public Policy  
1025 Eldorado Blvd.  
Broomfield, CO 80021  
Tele: 972.455.7833  
Email: kristie.ince@level3.com

Catherine Wang, Esq.  
Danielle Burt, Esq.  
Morgan, Lewis & Bockius LLP  
1111 Pennsylvania Ave., N.W.  
Washington, DC 20006  
Tele 202.739.3000  
Fax: 202.739.3001  
E-mail: catherine.wang@morganlewis.com  
danielle.burt@morganlewis.com

Anita Taff-Rice  
iCommLaw  
1547 Palos Verdes, #298  
Walnut Creek, CA 94597  
Tele: 415.699.7885  
Email: anita@icommlaw.com

*On Behalf of Level 3 Communications, Inc. and  
the Level 3 Operating Entities*

/s/

---

Jeffrey L. Lindsey  
CenturyLink, Inc.  
VP Regional Regulatory and Legislative Affairs  
20 East Thomas Road  
Phoenix, AZ 85012  
Tele: 602.630.1942  
Email: jeffrey.l.lindsey@centurylink.com

Norman G. Curtright  
Senior Counsel  
CenturyLink, Inc.  
20 East Thomas Road  
Phoenix, AZ 85012  
Tele: 602.630.2187  
Email: norm.curtright@centurylink.com

Leon M. Bloomfield  
Law Offices of Leon M. Bloomfield  
1901 Harrison St., Suite 1400  
Oakland, CA 94610  
Tele: 510.625.1164  
E-mail: lmb@wblaw.net

*On behalf of CenturyLink, Inc. and the  
CenturyLink Operating Entities*