

Appendix B

Level 3 Environmental Commitments from CPUC Negative Declaration IX

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The following are the mitigation measures required as part of the CPUC approved CPCN Decision for installation and operation of innerduct facilities within existing railroad, public roadway, or utility ROW. Implementation of the following measures as part of the proposed project will avoid or mitigate potentially significant adverse effects upon the environment caused by construction and operation of conduit facilities. These mitigation measures include the following:

All Environmental Factors: if a proposed project extends beyond the utility right-of-way into undisturbed areas or other right-of-way, Level 3 shall file a Petition to Modify its Certificate for Public Convenience and Necessity (CPCN). (“Utility right-of-way” means any utility right-of-way, not limited to only telecommunications utility right-of-way.) An appropriate environmental analysis of the impacts of these site-specific activities shall be done.

If the projects remain within the utility right-of-way, the following Mitigation Measures are recommended:

General Cumulative Impacts: in the event that more than one petitioner seeks modifications or additions to a particular locality, Level 3 shall coordinate their plans with each other, and consult with affected local agencies so that any cumulative effects on the environment are minimized. These coordination efforts shall reduce the number and duration of disturbance to existing utility right-of-way. Regardless of the number of petitioners for a particular locality, Level 3 shall consult with, and abide by the standards established, by all applicable local agencies. Each petitioner shall file a quarterly report, one month prior to the beginning of each quarter that summarizes the construction projects that are anticipated for the coming quarter. The summary will contain a description of the type of construction and the location for each project so that the local planning agencies can adequately coordinate multiple projects if necessary. The reports will also contain a summary of Level 3’s compliance with all Mitigation Measures for the projects listed. The quarterly reports will be filed with the local planning agencies where the projects are expected to take place and the Commission’s Telecommunications Division. The Commission filing will be in the form of an informational advice letter. Subsequent quarterly reports shall also summarize the status of the projects listed in previous quarterly report, until they are completed.

Geological Resources: Level 3 shall comply with all local design construction and safety standards by obtaining all applicable ministerial permits from the appropriate local agencies including the development and approval of erosion control plans. These shall be developed and implemented for areas identified as particularly unstable or susceptible to erosion. If more than one petitioner plans to excavate sensitive areas, coordination of their plans shall be necessary to minimize the number of disturbances. Level 3’s compliance with this Mitigation Measure shall be included in its quarterly report.

Water Resources: Level 3 shall consult with all appropriate local, state and federal water resource agencies for projects that are in close proximity to water resources, underground or surface. Level 3 shall comply with all applicable local, state and federal water resource regulations including the development of site-specific mitigation plans should the projects impact water quality, drainage, direction, flow or quantity. If there is more than one petitioner for a particular area that requires excavation, coordination plans shall be required to minimize the number of disturbances. Level 3's compliance with this Mitigation Measure shall be included in its quarterly report.

Air Quality: Level 3 shall develop and implement appropriate dust control measures during excavation as recommended by the applicable air quality management district. Level 3 shall comply with all applicable air quality standards as established by the affected air quality management districts. If there is more than one petitioner for a particular area that requires excavation, coordination plans shall be required to minimize the number of disturbances. Level 3's compliance with this Mitigation Measure shall be included in its quarterly report.

Transportation and Circulation and Public Services: Level 3 shall coordinate their efforts to install fiber optic cables or additional conduits so that the number of disturbances to the utility rights-of-way are minimized. These coordination efforts shall include affected transportation and planning agencies to coordinate other projects unrelated to Level 3s' projects. For example, review of a planning agency's Capital Improvement Plan (CIP) to identify impacted street projects would be an expected part of the coordination effort by Level 3. Besides coordinating their efforts, Level 3 shall abide by all local construction, maintenance and safety standards (and state standards, if applicable) by acquiring the necessary ministerial permits from the appropriate local agency and/or Caltrans (if within State right-of-way). Examples of these permits are excavation, encroachment and building permits. Appropriate construction start and end times, and dates if appropriate, shall be employed to avoid peak traffic periods, especially if Level 3s' work encroaches upon transportation rights-of-way. Notice to the affected area (surrounding property owners and occupants) shall be given at least two weeks in advance of the construction. The notice will provide the time and dates of the proposed construction and discussion of potential impacts on traffic and circulation. Level 3 shall consult with local agencies on appropriate restoration of public service facilities that are damaged by the construction and shall be responsible for such restoration. The notice required for Mitigation Measures F and H shall be consolidated. Level 3's compliance with this Mitigation Measure shall be included in its quarterly report.

Hazards: Level 3 shall use the Transportation and Circulation mitigation measure and augment it by informing and consulting with emergency response or evacuation agencies if the proposed project interferes with routes used for emergencies or evacuations. The coordination effort shall include provisions so that emergency or evacuation plans are not hindered. If the project results in an increase in overhead communication lines, Level 3 shall obtain the necessary ministerial permits to erect the necessary poles to support the lines. The Commission shall include these facilities as part of its overhead line regular inspection so that the requirements of G.O. 95 are met. Level 3's compliance with this Mitigation Measure shall be included in its quarterly report.

Noise: Level 3 shall abide by applicable local noise standards and shall inform surrounding property owners and occupants, particularly school districts, hospitals and the residential neighborhoods, of the day(s) when most construction noise would occur if Level 3 plans excavation, trenching or other heavy construction activities which would cause any significant noise. Notice shall be given at least two weeks in advance of the construction. The notice required for Mitigation Measures F and H shall be consolidated. Level 3's compliance with this Mitigation Measure shall be included in its quarterly report.

Aesthetics: All applicable local aesthetic standards will be addressed by Level 3 for all facilities that are above-ground, in particular all types of service boxes or cabinets. The local land use agency shall be consulted by Level 3 so that any site-specific aesthetic impacts are assessed and properly mitigated by Level 3. For example, this may include restoration of the landscaped utility rights-of-way. Petitioner's compliance with this Mitigation Measure shall be included in its quarterly report.

Cultural Resources: Level 3 shall conduct appropriate data research for known cultural resources in the proposed project area, and avoid such resources in designing and constructing the project. Should cultural resources be encountered during construction, all earthmoving activity which would adversely impact such resources shall be halted or altered until Level 3 retains the service of a qualified archaeologist who will do the appropriate examination and analysis. The archaeologist will provide proposals for any procedures to mitigate the impact upon those resources encountered. Level 3's compliance with this Mitigation Measure shall be included in its quarterly report.