

# LEVEL 3 COMMUNICATIONS INC

## FORM 8-K

(Current report filing)

Filed 01/06/10 for the Period Ending 01/05/10

|             |                                                              |
|-------------|--------------------------------------------------------------|
| Address     | 1025 ELDORADO BOULEVARD<br>BLDG 2000<br>BROOMFIELD, CO 80021 |
| Telephone   | 7208881000                                                   |
| CIK         | 0000794323                                                   |
| Symbol      | LVLT                                                         |
| SIC Code    | 4813 - Telephone Communications, Except Radiotelephone       |
| Industry    | Communications Services                                      |
| Sector      | Services                                                     |
| Fiscal Year | 12/31                                                        |

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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 8-K**

**CURRENT REPORT**

**PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

Date of Report (Date of earliest event reported): **January 5, 2010**

**Level 3 Communications, Inc.**

(Exact name of Registrant as specified in its charter)

**Delaware**

(State or other  
jurisdiction of incorporation)

**0-15658**

(Commission File  
Number)

**47-0210602**

(IRS employer  
Identification No.)

**1025 Eldorado Blvd., Broomfield, Colorado**

(Address of principal executive offices)

**80021**

(Zip code)

**720-888-1000**

(Registrant's telephone number including area code)

**Not applicable**

(Former name and former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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## **Item 2.02. Results of Operations and Financial Condition**

On January 5, 2010, Level 3 Communications, Inc. (“Level 3”) issued a press release relating to, among other things, certain fourth quarter and certain full year 2009 financial projections. This press release is furnished as Exhibit 99.1 to this Form 8-K and incorporated by reference as if set forth in full. The furnishing of this information shall not be deemed an admission as to the materiality of the information included in this Form 8-K. This information is not filed but is furnished to the Securities and Exchange Commission pursuant to Item 2.02 of Form 8-K.

Some of the statements made in Exhibit 99.1 are forward-looking in nature. These statements are based on management’s current expectations or beliefs. These forward-looking statements are not a guarantee of performance and are subject to a number of uncertainties and other factors, many of which are outside Level 3’s control, which could cause actual events to differ materially from those expressed or implied by the statements. The most important factors that could prevent Level 3 from achieving its stated goals include, but are not limited to the company’s ability to: successfully integrate acquisitions; increase the volume of traffic on the network; defend intellectual property and proprietary rights; develop new products and services that meet customer demands and generate acceptable margins; successfully complete commercial testing of new technology and information systems to support new products and services; attract and retain qualified management and other personnel; and meet all of the terms and conditions of debt obligations. Additional information concerning these and other important factors can be found within Level 3’s filings with the Securities and Exchange Commission. Statements in this press release should be evaluated in light of these important factors. Level 3 is under no obligation to, and expressly disclaims any such obligation to, update or alter its forward-looking statements, whether as a result of new information, future events, or otherwise.

## **Item 8.01. Other Events**

### **Private Offering**

On January 5, 2010, Level 3 issued a press release announcing that its wholly owned, first tier subsidiary, Level 3 Financing, Inc. (“Level 3 Financing”), plans to issue \$640 million aggregate principal amount of senior notes that will mature in 2018 and will bear interest at a fixed rate in a proposed private offering to “qualified institutional buyers” as defined in Rule 144A under the Securities Act of 1933, as amended, and non-U.S. persons outside the United States under Regulation S under the Securities Act of 1933, as amended.

The press release is filed as Exhibit 99.2 to this Current Report and is incorporated herein by reference as if set forth in full.

On January 6, 2010, Level 3 issued a press release announcing that Level 3 Financing agreed to sell \$640 million aggregate principal amount of 10.00% Senior Notes due 2018 in a private offering to qualified institutional buyers and to non-U.S. persons outside the United States under Regulation S.

The press release is filed as Exhibit 99.3 to this Current Report and is incorporated herein by reference as if set forth in full.

## Tender Offer

On January 5, 2010, Level 3 issued a press release announcing that Level 3 Financing has commenced a tender offer to purchase for cash any and all of the \$550 million in aggregate principal amount outstanding of its 12.25% Senior Notes due 2013 (the “Tender Offer”).

In connection with the Tender Offer, Level 3 Financing is soliciting consents to certain proposed amendments to the indenture governing the 12.25% Senior Notes that are subject to the Tender Offer to eliminate substantially all of the covenants, certain repurchase rights and certain events of default and related provisions contained in the indenture.

The Tender Offer is subject to the satisfaction or waiver of certain other conditions as set forth in the Offer to Purchase. It is a condition to the consummation of the Tender Offer that the holders of at least a majority of the outstanding aggregate principal amount of the 12.25% Senior Notes consent to the amendments to the indenture governing the notes.

This report is not an offer to purchase, a solicitation of an offer to purchase, or a solicitation of an offer to sell securities with respect to the 12.25% Senior Notes that are the subject of the Tender Offer. The Tender Offer may only be made pursuant to the terms of the Offer to Purchase and the related Letter of Transmittal.

The press release is filed as Exhibit 99.4 to this Current Report and is incorporated herein by reference as if set forth in full.

### **Item 9.01. Financial Statements and Exhibits**

#### (a) Financial Statements of Business Acquired

None

#### (b) Pro Forma Financial Information

None

#### (c) Shell Company Transactions

None

#### (d) Exhibits

99.1 Press Release dated January 5, 2010, relating to, among other things, certain fourth quarter and full year 2009 financial projections.

99.2 Press Release dated January 5, 2010, relating to the launching of the

private offering of senior notes by Level 3 Financing, Inc.

99.3 Press Release dated January 6, 2010, relating to the pricing of the private offering of senior notes by Level 3 Financing, Inc.

99.4 Press Release dated January 5, 2010, relating to the launching of the tender offer by Level 3 Financing, Inc.

## SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, hereunto duly authorized.

Level 3 Communications, Inc.

By: /s/ Neil J. Eckstein

Neil J. Eckstein

Senior Vice President

Date: January 6, 2010

[Signature Page to Form 8-K]

## Exhibit Index

| Exhibit | Description                                                                                                                            |
|---------|----------------------------------------------------------------------------------------------------------------------------------------|
| 99.1    | Press Release dated January 5, 2010, relating to, among other things, certain fourth quarter and full year 2009 financial projections. |
| 99.2    | Press Release dated January 5, 2010, relating to the launching of the private offering of senior notes by Level 3 Financing, Inc.      |
| 99.3    | Press Release dated January 6, 2010, relating to the pricing of the private offering of senior notes by Level 3 Financing, Inc.        |
| 99.4    | Press Release dated January 5, 2010, relating to the launching of the tender offer by Level 3 Financing, Inc.                          |



### Level 3 Releases Statement

**BROOMFIELD , Colo., Jan. 5, 2010** — Level 3 Communications, Inc. (Nasdaq: LVLT) today announced that the following statement can be attributed to the company in connection with the proposed private offering by its subsidiary, Level 3 Financing, Inc., of senior notes to “qualified institutional buyers”, as defined in Rule 144A under the Securities Act of 1933 and outside the United States under Regulation S under the Securities Act of 1933.

“The company is confirming its previously issued expectation of Consolidated Adjusted EBITDA(1) of \$900 million to \$950 million for the full year 2009. The company also expects to be approximately Free Cash Flow neutral for 2009 in the aggregate. In addition, for the fourth quarter 2009, the company continues to expect improvement in the sequential performance of Core Network Services revenue. Consolidated Adjusted EBITDA is expected to increase in the fourth quarter compared to the company’s results in the third quarter.”

### About Level 3 Communications

Level 3 Communications, Inc. (NASDAQ: LVLT) is a leading international provider of fiber-based communications services. Enterprise, content, wholesale and government customers rely on Level 3 to deliver services with an industry-leading combination of scalability and value over an end-to-end fiber network. Level 3 offers a portfolio of metro and long-haul services, including transport, data, Internet, content delivery and voice. For more information, visit [www.Level3.com](http://www.Level3.com).

© Level 3 Communications, LLC. All Rights Reserved. Level 3, Level 3 Communications and the Level 3 Communications Logo are either registered service marks or service marks of Level 3 Communications, LLC and/or one of its Affiliates in the United States and/or other countries. Level 3 services are provided by wholly owned subsidiaries of Level 3 Communications, Inc. Any other service names, product names, company names or logos included herein are the trademarks or service marks of their respective owners.

### Forward-Looking Statement

*Some of the statements made in this press release are forward looking in nature. These statements are based on management’s current expectations or beliefs. These forward looking statements are not a guarantee of performance and are subject to a number of uncertainties and other factors, many of which are outside Level 3’s control, which could cause actual events to differ materially from those expressed or implied by the statements. The most important factors that could prevent Level 3 from achieving its stated goals include, but are not limited to, the current uncertainty in the global financial markets and the global economy; disruptions in the financial markets that could affect Level 3’s ability to obtain additional financing; as well as the company’s ability to: successfully integrate acquisitions; increase the volume of traffic on the network; defend intellectual property and proprietary rights; develop effective business support systems; manage system and network failures or disruptions; develop new services that meet customer demands and generate acceptable margins; attract and retain qualified management and other personnel; and meet all of the terms and conditions of debt obligations. Additional information concerning these and other important factors can be found within Level 3’s filings with the Securities and Exchange Commission. Statements in this press release should be evaluated in light of these important factors. Level 3 is*

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*under no obligation to, and expressly disclaims any such obligation to, update or alter its forward-looking statements, whether as a result of new information, future events, or otherwise .*

## **(1) Non-GAAP Metrics**

Pursuant to Regulation G, the company is hereby providing a reconciliation of non-GAAP financial metrics to the most directly comparable GAAP measure.

The following describes and reconciles those financial measures as reported under accounting principles generally accepted in the United States (GAAP) with those financial measures as adjusted by the items detailed below and presented in the accompanying news release. These calculations are not prepared in accordance with GAAP and should not be viewed as alternatives to GAAP. In keeping with its historical financial reporting practices, the company believes that the supplemental presentation of these calculations provides meaningful non-GAAP financial measures to help investors understand and compare business trends among different reporting periods on a consistent basis, independently of regularly reported non-cash charges and infrequent or unusual events.

**Adjusted EBITDA** is defined as net income (loss) from the Consolidated Statements of Operations before income taxes, total other income (expense), non-cash impairment charges, depreciation and amortization and non-cash stock compensation expense.

**Consolidated Free Cash Flow** is defined as net cash provided by (used in) operating activities less capital expenditures as disclosed in the Consolidated Statements of Cash Flows. Management believes that Consolidated Free Cash Flow is a relevant metric to provide to investors, as it is an indicator of the company's ability to generate cash to service its debt. Consolidated Free Cash Flow excludes cash used for acquisitions and principal repayments.

There are material limitations to using Consolidated Free Cash Flow to measure the company against some of its competitors as Level 3 does not currently pay a significant amount of income taxes due to net operating losses, and therefore, generates higher cash flow than a comparable business that does pay income taxes. Additionally, this financial measure is subject to variability quarter over quarter as a result of the timing of payments related to accounts receivable and accounts payable and capital expenditures. This financial measure should not be used as a substitute for net change in cash and cash equivalents on the Consolidated Statements of Cash Flows.

Management believes that Adjusted EBITDA and Adjusted EBITDA Margin are relevant and useful metrics to provide to investors, as they are an important part of the company's internal reporting and are key measures used by Management to evaluate profitability and operating performance of the company and to make resource allocation decisions. Management believes such measures are especially important in a capital-intensive industry such as telecommunications. Management also uses Adjusted EBITDA and Adjusted EBITDA Margin to compare the company's performance to that of its competitors and to eliminate certain non-cash and non-operating items in order to consistently measure from period to period its ability to fund capital expenditures, fund growth, service debt and determine bonuses. Adjusted EBITDA excludes non-cash impairment charges and non-cash stock compensation expense because of the non-cash nature of these items. Adjusted EBITDA also excludes interest income, interest expense and income taxes because these items are associated with the company's capitalization and tax structures. Adjusted EBITDA also excludes depreciation and amortization expense because these non-cash expenses reflect the impact of capital investments which management believes should be evaluated through consolidated free cash flow. Adjusted EBITDA excludes the gain on extinguishment of debt and other, net because these items are not related to the primary operations of the company.

There are limitations to using non-GAAP financial measures, including the difficulty associated with comparing companies that use similar performance measures whose calculations may differ from the company's calculations. Additionally, this financial measure does not include certain significant items such as interest income, interest expense, income taxes, depreciation and amortization, non-cash impairment charges, non-cash stock compensation expense, the gain on extinguishment of debt and net

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other income (expense). Adjusted EBITDA should not be considered a substitute for other measures of financial performance reported in accordance with GAAP.

### Projected Consolidated Adjusted EBITDA

The company has provided projections that include non-GAAP metrics that the company deems relevant to management and investors including a reconciliation of the non-GAAP financial metrics to GAAP that includes forward-looking statements with respect to the information identified as a projection. Level 3 has made a number of assumptions in preparing our projections, including assumptions as to the components of financial metrics. These assumptions, including dollar amounts of the various components that comprise a financial metric, may or may not prove to be correct. We caution you that these forward-looking statements are only projections, which are subject to risks and uncertainties including technological uncertainty, financial variations, changes in the regulatory environment, industry growth and trend predictions. Please see the company's filings with the Securities and Exchange Commission, in particular the company's 2008 Form 10-K, for a description of these risks and uncertainties.

In order to provide projections with respect to non-GAAP metrics, we are required to indicate a range for GAAP measures that are components of the reconciliation of the non-GAAP metric. The provision of these ranges is in no way meant to indicate that the company is explicitly or implicitly providing projections on those GAAP components of the reconciliation. In order to reconcile the non-GAAP financial metric to GAAP, the company has to use ranges for the GAAP components that arithmetically add up to the non-GAAP financial metric. While the company feels reasonably comfortable about the projections for its non-GAAP financial metrics, it fully expects that the ranges used for the GAAP components will vary from actual results. We will consider our projections of non-GAAP financial metrics to be accurate if the specific non-GAAP metric is met or exceeded, even if the GAAP components of the reconciliation are different from those provided in an earlier reconciliation.

**Projected Consolidated Adjusted EBITDA**  
**Year Ended December 31, 2009**  
(\$ in millions)

|                                             | Consolidated<br>Range |                 |
|---------------------------------------------|-----------------------|-----------------|
|                                             | Low                   | High            |
| <b>Net Income (Loss)</b>                    | <b>\$ (640)</b>       | <b>\$ (570)</b> |
| Total Income Tax and Other (Income) Expense | 580                   | 560             |
| Depreciation and Amortization               | 915                   | 905             |
| Non-cash Stock Compensation                 | 45                    | 55              |
| <b>Consolidated Adjusted EBITDA</b>         | <b>\$ 900</b>         | <b>\$ 950</b>   |

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### Contact Information

Media:  
Vince Hancock  
720-888-2146

Investors:  
Valerie Finberg  
720-888-2501



### **Level 3 Announces Proposed Private Offering of Senior Notes**

**BROOMFIELD, Colo., Jan. 5, 2010** — Level 3 Communications, Inc. (Nasdaq: LVLT) today announced that its subsidiary, Level 3 Financing, Inc., plans to offer \$640 million aggregate principal amount of senior notes that will mature in 2018 and will bear interest at a fixed rate in a proposed private offering to “qualified institutional buyers”, as defined in Rule 144A under the Securities Act of 1933, as amended, and non-U.S. persons outside the United States under Regulation S under the Securities Act of 1933, as amended.

The net proceeds from the offering will be used to fund Level 3 Financing’s purchase of its 12.25% Senior Notes due 2013 in a concurrent tender offer and consent solicitation. The closing of the offering is conditioned upon the valid tender of a minimum aggregate principal amount of notes and the receipt of a minimum amount of consents in the tender offer and consent solicitation.

The senior notes will not be registered under the Securities Act of 1933 or any state securities laws and, unless so registered, may not be offered or sold except pursuant to an applicable exemption from the registration requirements of the Securities Act of 1933 and applicable state securities laws.

#### **About Level 3 Communications**

Level 3 Communications, Inc. (NASDAQ: LVLT) is a leading international provider of fiber-based communications services. Enterprise, content, wholesale and government customers rely on Level 3 to deliver services with an industry-leading combination of scalability and value over an end-to-end fiber network. Level 3 offers a portfolio of metro and long-haul services, including transport, data, Internet, content delivery and voice. For more information, visit [www.Level3.com](http://www.Level3.com).

#### **Forward-Looking Statement**

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720-888-2501

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### **Level 3 Announces Pricing of Private Offering of Senior Notes**

**BROOMFIELD, Colo., Jan. 6, 2010** — Level 3 Communications, Inc. (Nasdaq: LVLT) today announced that its subsidiary, Level 3 Financing, Inc., has agreed to sell \$640 million aggregate principal amount of 10% Senior Notes due 2018 in a private offering to “qualified institutional buyers,” as defined in Rule 144A under the Securities Act of 1933, as amended, and non-U.S. persons outside the United States under Regulation S under the Securities Act of 1933, as amended. The notes were priced to investors at 97.982% of their principal amount.

The net proceeds from the offering will be used to fund Level 3 Financing’s purchase of its 12.25% Senior Notes due 2013 in a concurrent tender offer and consent solicitation. The closing of the offering is conditioned upon the valid tendering, and acceptance by Level 3 Financing, of a minimum aggregate principal amount of notes in the tender offer and consent solicitation, receipt of a minimum amount of consents in the tender offer and consent solicitation and the satisfaction or waiver of the other conditions to the tender offer and consent solicitation (collectively, the “Closing Conditions”).

The offering is expected to be completed on January 20, 2010, subject to the satisfaction or waiver of the Closing Conditions.

The senior notes will not be registered under the Securities Act of 1933, as amended, or any state securities laws and, unless so registered, may not be offered or sold except pursuant to an applicable exemption from the registration requirements of the Securities Act of 1933, as amended, and applicable state securities laws.

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*customer demands and generate acceptable margins; attract and retain qualified management and other personnel; and meet all of the terms and conditions of debt obligations. Additional information concerning these and other important factors can be found within Level 3's filings with the Securities and Exchange Commission. Statements in this press release should be evaluated in light of these important factors. Level 3 is under no obligation to, and expressly disclaims any such obligation to, update or alter its forward-looking statements, whether as a result of new information, future events or otherwise.*

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### Level 3 Subsidiary Launches Tender Offer

*Level 3 Financing, Inc. Tenders for its  
12.25% Senior Notes due 2013*

**BROOMFIELD, Colo., Jan. 5, 2010** — Level 3 Communications, Inc. (Nasdaq: LVL3) announced today that its subsidiary, Level 3 Financing, Inc., has commenced a tender offer to purchase for cash any and all of the \$550 million in aggregate principal amount outstanding of its 12.25% Senior Notes due 2013 (the “Notes”).

In connection with the offer to purchase, Level 3 Financing is soliciting consents to certain proposed amendments to the indenture governing the Notes to eliminate substantially all of the covenants, certain repurchase rights and certain events of default and related provisions contained in the indenture.

Holders of Notes that are validly tendered prior to 5:00 p.m., New York City time on Jan. 19, 2010, unless extended or earlier terminated (the “Consent Time”), and accepted for purchase, will receive the total consideration of \$1,080.00 per \$1,000.00 principal amount of the Notes, which includes \$1,050.00 as the tender offer consideration and \$30.00 as a consent payment. The tender offer is scheduled to expire at midnight, New York City time, on February 2, 2010, unless extended or earlier terminated (the “Expiration Date”). Payment for Notes validly tendered on or prior to the Consent Time and accepted for purchase will be made promptly after the Consent Time. Holders of Notes that are validly tendered after the Consent Time and on or prior to the Expiration Date, and accepted for purchase, will receive the tender offer consideration but will not receive the consent payment. Payment for Notes validly tendered after the Consent Time and on or prior to the Expiration Date and accepted for purchase will be made promptly after the Expiration Date. Accrued interest up to, but not including, the applicable settlement date will be paid in cash on all validly tendered and accepted Notes.

Level 3 Financing intends to fund the purchase of the Notes tendered with net proceeds from a proposed private debt offering, and may also fund purchases pursuant to the tender offer with cash on hand. It is anticipated that any Notes that remain outstanding following the tender offer will be redeemed by the company on March 15, 2010, at a redemption price of \$ 1,061.25, defeased or otherwise discharged.

It is a condition to the consummation of the tender offer that the holders of at least a majority of the outstanding aggregate principal amount of the Notes consent to the amendments to the indenture governing the Notes. Level 3 Financing’s obligation to purchase Notes pursuant to the tender offer is also conditioned on the issuance by

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Level 3 Financing of at least \$640 million aggregate principal amount of senior notes in the proposed debt offering described above. The tender offer is also subject to the satisfaction or waiver of certain other conditions as set forth in the Offer to Purchase.

This announcement is not an offer to purchase, a solicitation of an offer to purchase, or a solicitation of an offer to sell securities with respect to the Notes. The tender offer may only be made pursuant to the terms of the Offer to Purchase and the related Letter of Transmittal.

The complete terms and conditions of the tender offer are set forth in an Offer to Purchase that is being sent to holders of the Notes. Holders are urged to read the tender offer documents carefully. Copies of the Offer to Purchase and the related Letter of Transmittal may be obtained from the Information Agent for the tender offer, Global Bondholder Services Corporation, at (212) 430-3774 and (866) 389-1500 (toll-free).

BofA Merrill Lynch and Citi are the Dealer Managers for the tender offer. Questions regarding the tender offer may be directed to BofA Merrill Lynch, Liability Management Group at (888) 292-0070 (toll-free) and (646) 855-3401 or Citigroup Global Markets Inc. at (800) 558-3745 (toll-free) and (212) 723-6106.

#### **About Level 3 Communications**

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