

LEVEL 3 COMMUNICATIONS INC

FORM S-8

(Securities Registration: Employee Benefit Plan)

Filed 05/21/04

Address	1025 ELDORADO BOULEVARD BLDG 2000 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

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

Form S-8

REGISTRATION STATEMENT UNDER
THE SECURITIES ACT OF 1933

LEVEL 3 COMMUNICATIONS, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

47-0210602
(I.R.S. Employer
Identification Number)

1025 Eldorado Blvd.
Broomfield, Colorado 80021
(Address, including zip code, of principal executive offices)

LEVEL 3 COMMUNICATIONS, INC.

1995 STOCK PLAN

(Full title of plan)

Thomas C. Stortz, Esq.
1025 Eldorado Blvd.
Broomfield, Colorado 80021
(720) 888-1000
(Name, address, including zip code, and telephone number,
including area code, of agent for service)

CALCULATION OF REGISTRATION FEE

Title of securities to be registered	Amount to be registered (1)	Proposed maximum offering price per share (2)	Proposed maximum aggregate offering price (2)	Amount of registration fee
Common Stock, par value \$0.01 per share (the "Common Stock")	130,000,000	\$3.36	\$436,800,000	\$55,343

(1) Represents 130,000,000 shares of Common Stock of Level 3 Communications, Inc. (the "Common Stock") issuable pursuant to the Level 3 Communications, Inc. 1995 Stock Plan (the "Plan"). In addition, pursuant to Rule 416 under the Securities Act of 1933, as amended (the "Securities Act"), this Registration Statement covers an indeterminable number of additional shares as may hereafter be offered or issued, pursuant to the Plans, to prevent dilution resulting from stock splits, stock dividends or similar transactions.

(2) Estimated solely for calculating the amount of the registration fee, pursuant to paragraphs (c) and (h) of Rule 457 under the Securities Act, based on the average of the high and low sales prices of the Common Stock as reported by the Nasdaq National Market on May 20, 2004.

PART I

INFORMATION REQUIRED IN THE SECTION 10(A) PROSPECTUS

The documents containing the information specified in Part I of Form S-8 have been or will be sent or given to participating employees as specified in Rule 428(b)(1) of the Securities Act, in accordance with the rules and regulations of the United States Securities and Exchange Commission (the "Commission"). Such documents are not being filed with the Commission either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424 of the Securities Act. These documents and the documents incorporated by reference into this Registration Statement pursuant to Item 3 of Part II of this Registration Statement, taken together, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE

The following documents, filed with the Commission by the Registrant, are incorporated by reference into the Registration Statement:

- (a) The Registrant's Annual Report on Form 10-K for the fiscal year ending December 31, 2003, filed pursuant to the Securities Exchange Act of 1934 (the "Exchange Act");
- (b) The Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 2004;
- (c) The Registrant's amended Quarterly Reports on Form 10-Q/A-1 for the fiscal quarters ended March 31, 2003, June 30, 2003 and September 30, 2003, all filed on March 5, 2004, pursuant to the Exchange Act; and
- (d) The description of the Registrant's Common Stock incorporated by reference into the Company's Registration Statement on Form 8-A, as amended, filed pursuant to the Exchange Act, on March 31, 1998.

In addition, all documents filed by the Registrant with the Commission pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act subsequent to the date of this Registration Statement and prior to the filing of a post-effective amendment which indicates that all the securities offered hereby have been sold or which deregisters all securities then remaining unsold shall be deemed to be incorporated by reference in this Registration Statement and to be a part hereof from the date of the filing of such documents with the Commission. Any statement contained in a document incorporated by reference herein shall be deemed to be modified or superseded for purposes hereof to the extent that a statement contained herein (or in any other subsequently filed document which also is incorporated by reference herein) modifies or

supersedes such statement. Any statement so modified or superseded shall not be deemed to constitute a part hereof except as so modified or superseded.

Item 4. DESCRIPTION OF SECURITIES

Inapplicable.

Item 5. INTERESTS OF NAMED EXPERTS AND COUNSEL

The validity of the issuance of the Common Stock offered under the Plan is being passed upon by Neil J. Eckstein, Senior Vice President of the Registrant. Mr. Eckstein will be eligible to participate in the Registrant's 1995 Stock Option Plan, pursuant to the terms of the Plan and at the discretion of the Registrant, to the same extent as other eligible senior officers of the Registrant. As of the date of this Registration Statement, Mr. Eckstein owns 566 shares of Common Stock.

Item 6. INDEMNIFICATION OF DIRECTORS AND OFFICERS

Section 145 of the Delaware General Corporation Law permits a corporation to indemnify its officers and directors to the extent provided in that statute. The Registrant's Certificate of Incorporation and By-laws contain provisions intended to indemnify officers and directors against liability to the fullest extent permitted by applicable law. The Delaware General Corporation Law empowers the Registrant to maintain insurance on behalf of officers and directors against liabilities incurred while acting in such capacities. The Registrant maintains such insurance.

Item 7. EXEMPTION FROM REGISTRATION CLAIMED

Inapplicable.

Item 8. EXHIBITS

Exhibit No. Description of Exhibit

5 Opinion of Neil J. Eckstein, Senior Vice President of Level 3 Communications, Inc.

23.1 Consent of KPMG LLP

23.2 Information Regarding Arthur Andersen LLP

23.3 Consent of Neil J. Eckstein, Senior Vice President of Level 3 Communications, Inc. (included in Exhibit 5).

24 Power of Attorney (reference is made to the signature page).

Item 9. UNDERTAKINGS

The undersigned registrant hereby undertakes:

1. (a) To file, during any period in which offers or sales are being made, a post-effective amendment to the Registration Statement:

(i) to include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) to reflect in the prospectus any facts or events arising after the effective date of the Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the Registration Statement;

(iii) to include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the Registration Statement;

provided, however, that paragraphs (1)(a)(i) and (1)(a)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed by the Company pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in the Registration Statement.

(b) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

2. The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act that is incorporated by reference in the Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

3. Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Broomfield, State of Colorado, on May 21, 2004

LEVEL 3 COMMUNICATIONS, INC.

By: /s/ James Q. Crowe
 James Q. Crowe
 Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that each individual whose signature appears below constitute and appoint Thomas C. Stortz and Neil J. Eckstein, as his true and lawful attorney-in-fact and agent for the undersigned, with full power of substitution, for and in the name, place and stead of the undersigned to sign and file with the Securities and Exchange Commission under the Securities Act of 1933, as amended, (i) any and all pre-effective and post-effective amendments to this registration statement, (ii) any registration statement relating to this offering that is to be effective upon filing pursuant to rule 462(b) under the Securities Act of 1933, as amended, (iii) any exhibits to any such registration statement or pre-effective or post-effective amendments, (iv) any and all applications and other documents in connection with any such registration statement or pre-effective or post-effective amendments, and generally to do all things and perform any and all acts and things whatsoever requisite and necessary or desirable to enable Level 3 Communications, Inc. to comply with the provisions of the Securities Act of 1933, as amended, and all requirements of the Securities and Exchange Commission.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the date indicated.

Name	Title	Date
/s/ Walter Scott Jr. Walter Scott, Jr.	Chairman of the Board	May 21, 2004
/s/ James Q. Crowe James Q. Crowe	Chief Executive Officer and Director	May 21, 2004
/s/ Sunit S. Patel Sunit S. Patel	Group Vice President and Chief Financial Officer (Principal Financial Officer)	May 21, 2004

/s/ Eric J. Mortensen Eric J. Mortensen	Sr. Vice President and Controller (Principal Accounting Officer)	May 21, 2004
/s/ Mogens C. Bay Mogens C. Bay	Director	May 21, 2004
/s/ Richard R. Jaros Richard R. Jaros	Director	May 21, 2004
/s/ Robert E. Julian Robert E. Julian	Director	May 21, 2004
/s/ David C. McCourt David C. McCourt	Director	May 21, 2004
/s/ Arun Netravali Arun Netravali	Director	May 21, 2004
/s/ John T. Reed John T. Reed	Director	May 21, 2004
/s/ Michael Yanney Michael Yanney	Director	May 21, 2004

EXHIBIT 5

[Letterhead of Level 3 Communications, Inc.]

May 21, 2004

Level 3 Communications, Inc.
1025 Eldorado Blvd.
Broomfield, Colorado 80021

Ladies and Gentlemen:

I am delivering this opinion in connection with the Registration Statement on Form S-8 (the "Registration Statement"), initially filed by Level 3 Communications, Inc. (the "Company") on the date hereof with the Securities and Exchange Commission under the Securities Act of 1933, as amended (the "Act"), with respect to 130,000,000 shares (the "Shares") of common stock, par value \$.01 per share, of the Company ("Common Stock") which are issuable pursuant to awards granted under the Company's 1995 Stock Plan (the "Plan").

I have examined and am familiar with originals or copies, certified or otherwise identified to my satisfaction, of such documents, corporate records and other instruments relating to the authorization and issuance of the Shares, and have made such investigations of law, as I have deemed necessary and advisable for the purpose of preparing this opinion. In such examination, I have assumed the genuineness of all signatures, the authenticity of all documents submitted to me as originals and the conformity to authentic originals of all documents submitted to me as copies.

Based upon the foregoing, I am of the opinion that the Shares to be newly issued pursuant to awards granted under the Plans have been duly authorized for issuance and when issued in accordance with the terms and conditions of the Plans for consideration in excess of \$0.01 per share, will be validly issued, fully paid and non-assessable.

I hereby consent to the filing of this opinion as an exhibit to the Registration Statement. I do not admit by giving this consent that I am in the category of persons whose consent is required under Section 7 of the Act.

Very truly yours,

/s/ Neil J. Eckstein

*Neil J. Eckstein
Senior Vice President and
Assistant General Counsel*

INDEPENDENT AUDITORS' CONSENT

The Board of Directors
Level 3 Communications, Inc.:

We consent to the use of our report dated March 1, 2004, with respect to the consolidated balance sheets of Level 3 Communications, Inc. and subsidiaries as of December 31, 2003 and 2002, and the related consolidated statements of operations, changes in stockholders' equity (deficit), cash flows, and comprehensive loss for the years then ended, which report appears in the December 31, 2003, annual report on Form 10-K of Level 3 Communications, Inc. and subsidiaries, incorporated herein by reference.

Our report refers to a change in the method of accounting for goodwill effective January 1, 2002, upon adoption of Statement of Financial Accounting Standards No. 142, and a change in the method of accounting for asset retirement obligations on January 1, 2003, upon adoption of Statement of Financial Accounting Standards No. 143. Our report also refers to our audit of the disclosures added to revise the 2001 consolidated financial statements, as more fully described in Notes 1 and 11 to the consolidated financial statements. However, we were not engaged to audit, review, or apply any procedures to the 2001 consolidated financial statements other than with respect to such disclosures.

*/s/ KPMG LLP
KPMG LLP*

*Denver, Colorado
May 20, 2004*

Information Regarding Consent of Arthur Andersen LLP

Section 11(a) of the Securities Act of 1933, as amended (the "Securities Act"), provides that if part of a registration statement at the time it becomes effective contains an untrue statement of a material fact, or omits a material fact required to be stated therein or necessary to make the statements therein not misleading, any person acquiring a security pursuant to such registration statement (unless it is proved that at the time of such acquisition such person knew of such untruth or omission) may assert a claim against, among others, an accountant who has consented to be named as having certified any part of the registration statement or as having prepared any report for use in connection with the registration statement.

Level 3 Communications, Inc. ("Level 3") dismissed Arthur Andersen LLP ("Andersen") as its independent auditors, effective June 14, 2002. For additional information, see Level 3's Report on Form 8-K dated June 21, 2002. After reasonable efforts, Level 3 has been unable to obtain Andersen's written consent to the incorporation by reference into this registration statement on Forms S-8 (the "Registration Statement") of Andersen's audit report with respect to Level 3's consolidated financial statements as of December 31, 2001 and for the year then ended. Under these circumstances, Rule 437a under the Securities Act permits Level 3 to file this Registration Statement on Form S-8, without a written consent from Andersen. As a result, with respect to transactions in Level 3 securities pursuant to the Registration Statements that occur subsequent to the date this Registration Statement is filed with the Securities and Exchange Commission, Andersen will not have any liability under Section 11(a) of the Securities Act for any untrue statements of a material fact contained in the financial statements audited by Andersen or any omissions of a material fact required to be stated therein. Accordingly, you would be unable to assert a claim against Andersen under Section 11(a) of the Securities Act.