

# LEVEL 3 COMMUNICATIONS INC

## FORM 8-K

(Current report filing)

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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): **June 2, 2014**

**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 5.02            Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**

On April 30, 2014, Thomas C. Stortz, Level 3 Communications, Inc.'s Executive Vice President, Chief Administrative Officer and Secretary, provided written notice that he will retire effective June 1, 2014. Mr. Stortz was a named executive officer.

In connection with Mr. Stortz rejoining the Company in June 2011, his consulting agreement dated February 6, 2011, with Level 3 Communications, LLC, a wholly owned subsidiary of the Level 3 Communications, Inc. (the "Company"), was modified to suspend the remaining term of that agreement until Mr. Stortz's employment with the Company or any of its subsidiaries terminated.

In connection with Mr. Stortz' retirement effective June 1, 2014, the suspension of his February 6, 2011, consulting agreement was automatically lifted, and the consulting agreement was reinstated for the remaining 10 months of its term. The parties to the consulting agreement entered into a Second Amendment to Consulting Agreement, dated as of June 2, 2014 (the "Second Amendment"), to: (a) substitute 15,596 Performance Restricted Stock Units for the outperform stock appreciation rights instruments ("OSOs") that were to be delivered to Mr. Stortz as partial consideration for his consulting services, because the Company no longer issues OSOs, (b) adjust the Restricted Stock Unit awards provided to Mr. Stortz to 15,596 on account of the 1-for-15 reverse stock split that the Company implemented effective in October, 2011, (c) extend Mr. Stortz' non-competition and non-solicitation obligations until July 1, 2015, and (d) obtain a current release of liability in favor of the Company. The descriptions of the material terms of the Second Amendment contained in this Current Report are qualified in their entirety by reference to such exhibit. The Second Amendment to Consulting Agreement is filed as exhibit 10.1 to this Form 8-K and is incorporated herein by reference as if set forth in full.

In addition, the form of the Company's Restricted Stock Unit and Performance Restricted Stock Unit Award Agreement for Mr. Stortz is filed as Exhibit 10.2 to this Form 8-K 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

- 10.1 Second Amendment to Consulting Agreement, dated as of June 2, 2014, between Level 3 Communications, LLC and Thomas C. Stortz.
- 10.2 Form of Restricted Stock Unit and Performance Restricted Stock Unit Award Agreement for Thomas C. Stortz.

## 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: June 3, 2014

## **Exhibit Index**

- 10.1 Second Amendment to Consulting Agreement, dated as of June 2, 2014, between Level 3 Communications, LLC and Thomas C. Stortz.
- 10.2 Form of Restricted Stock Unit and Performance Restricted Stock Unit Award Agreement for Thomas C. Stortz.

**SECOND AMENDMENT TO CONSULTING AGREEMENT**

This **SECOND AMENDMENT TO CONSULTING AGREEMENT** is made as of the 2<sup>nd</sup> day of June, 2014 by and between **LEVEL 3 COMMUNICATIONS, LLC**, a Delaware limited liability company ("Company") and **THOMAS C. STORTZ** ("Consultant").

WHEREAS, Consultant and Company desire to amend the Consulting Agreement dated February 16, 2011, as amended by the First Amendment to Consulting Agreement dated June 1, 2011 (the "First Amendment"), to remove the temporary suspension of the Consulting Agreement that was accomplished through the First Amendment, and to make additional changes as set forth herein;

NOW, THEREFORE, Company and Consultant agree as follows

1. **Capitalized Terms**. Capitalized terms used but not defined herein shall have the same meaning as set forth in the Consulting Agreement.
2. **Term**. Given Consultant's retirement from Company effective June 2, 2014, the temporary suspension of the Consulting Agreement is hereby terminated, and the remaining Term of the Consulting Agreement shall commence on June 2, 2014, and shall end on April 1, 2015, subject to any cancellation or termination rights as set forth in the Consulting Agreement.
3. **Consideration**. Section 4 of the Consulting Agreement is hereby modified as follows:
  - a. To give effect to a 1-for-15 reverse stock split that occurred after the date of the First Amendment, Consultant shall receive a single award of 15,596 RSUs on July 1, 2014;
  - b. Because Company no longer grants OSOs, Consultant and Company agree to substitute Performance Restricted Stock Units ("PRSUs"), with performance objectives identical to those set forth in the April 1, 2014 grant of PRSUs to certain Company employees, for OSOs on a 1-for-1 basis. Thus, giving effect for the reverse stock split referenced above, and in lieu of the quarterly grant of OSOs as described in the Consulting Agreement, Consultant shall receive a single award of 15,596 PRSUs on July 1, 2014.

The parties have contemporaneously executed a Restricted Stock Unit and Performance Restricted Stock Unit Award Agreement which shall govern the awards of RSUs and PRSUs set forth above.

4. **No Solicitation/No Competition**. The provisions of Section 12 of the Consulting Agreement, which initially applied for a period of 15 months from the Effective Date, shall be extended to apply through July 1, 2015 (and shall thereafter be of no force and effect).
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5. Release. For and in consideration of the payments and benefits described in the Consulting Agreement and herein, and other good and valuable consideration, Consultant, for and on behalf of himself and his heirs, administrators, executors, and assigns, does fully and forever release, remise, and discharge Company, its affiliates and their successors and assigns, together with their respective officers, directors, partners, shareholders, employees, and agents (collectively, and with Company, the "Company Parties") from any and all claims whatsoever up to the date hereof that Consultant had, may have had, or now has against the Company Parties, whether known or unknown, for or by reason of any matter, cause, or thing whatsoever, including any claim arising out of or attributable to Consultant's employment or retirement, whether for tort, breach of express or implied employment contract, intentional infliction of emotional distress, wrongful termination, unjust dismissal, defamation, libel, or slander, or under any federal, state, or local law dealing with discrimination based on age, race, sex, national origin, handicap, religion, disability, or sexual orientation. This release of claims includes, but is not limited to, all claims arising under the Age Discrimination in Employment Act ("ADEA"), Title VII of the Civil Rights Act, the Americans with Disabilities Act, the Civil Rights Act of 1991, the Family Medical Leave Act, and the Equal Pay Act, each as may be amended from time to time, and all other federal, state, and local laws, the common law, and any other purported restriction on an employer's right to terminate the employment of employees. Consultant intends that the release contained herein shall constitute a general release of any and all claims that he may have against the Company Parties as of the date hereof to the fullest extent permissible by law. Nothing in this paragraph, however, shall be construed to release the Company Parties from any liability for breach of this Consulting Agreement (as amended) or for breach of that certain Restricted Stock Unit and Performance Restricted Stock Unit Award Agreement between Company and Consultant dated June 2, 2014, or any other outstanding agreements between the parties, or between Consultant and affiliates of the Company.
6. Entire Agreement. This Second Amendment, together with the Consulting Agreement, the First Amendment and the Restricted Stock Unit and Performance Restricted Stock Unit Award Agreement, constitutes the entire agreement between the parties relating to the subject matter hereof, and supersedes all prior understandings, agreements and documents relating to the subject matter hereof. This Second Amendment may be modified only by an instrument executed by Company and Consultant.



7. Severability. If any provision of this Second Amendment is held to be unenforceable for any reason, it shall be modified rather than voided, if possible, in order to achieve the intent of the parties to the extent possible. In any event, all other provisions of this Second Amendment shall be valid and enforceable to the fullest extent possible.

**LEVEL 3 COMMUNICATIONS, LLC**

By: /s/ Laurinda Y. Pang

Its: Executive Vice President

**CONSULTANT**

/s/ Thomas C. Stortz

Thomas C. Stortz

**FORM OF LEVEL 3 COMMUNICATIONS, INC.  
RESTRICTED STOCK UNIT AND PERFORMANCE RESTRICTED STOCK UNIT AWARD AGREEMENT**

THIS RESTRICTED STOCK UNIT AND PERFORMANCE RESTRICTED STOCK UNIT AWARD AGREEMENT (the “Agreement”) is dated as of June 2, 2014 (the “Effective Date”) between Level 3 Communications, Inc., a Delaware corporation (the “Company”), and the individual whose name appears on the signature page to this Agreement (the “Consultant”). This Agreement shall incorporate, to the extent applicable, provisions of the Level 3 Communications, Inc. Stock Plan (as amended from time to time) (the “Plan”).

WHEREAS, pursuant to the terms of a Consulting Agreement dated February 16, 2011 (as amended, the “Consulting Agreement”), the Company is obligated to grant to the Consultant Restricted Stock Units (also referred to as “RSUs”) and Performance Restricted Stock Units (also referred to as “PRSUs” and referred to as “Performance Units” in the Plan) (each such grant an “Award”), as described below, pursuant to the Plan. Capitalized terms used but not expressly defined in this Agreement will have the meanings ascribed to them in the Plan.

NOW, THEREFORE, the parties agree as follows:

- 1. Definitions .** The following capitalized terms as used in this Agreement shall have the meanings set forth below:

“**Successor**” means any person, firm, corporation, or business entity that at any time, whether by merger, purchase or otherwise, acquires all or substantially all of the assets, stock or business of the Company.

- 2. Grants of Awards .** Pursuant to the provisions of the Plan, the Company, on July 1, 2014, shall grant Awards to the Consultant of 15,596 RSUs and 15,596 PRSUs that, under certain circumstances and in accordance with the terms hereof, may result in the Consultant having the right to acquire shares of common stock of the Company, par value \$.01 per share (the “Shares”). Each Award will be evidenced by a letter evidencing the Award (the “Award Letter”) attached as **Exhibit A** (with respect to RSUs) and **Exhibit B** (with respect to PRSUs).

- 3. Vesting of Awards .**

(a) *Time Based Vesting Conditions* . Subject to the terms and conditions of this Agreement, the RSUs and PRSUs shall satisfy the applicable time-based vesting conditions on the date or dates set forth in each Award Letter (each such date, a “Scheduled Vesting Date”).

(b) *Performance-Based Vesting Criteria* . The performance-based vesting criteria (if any) shall be set forth in the Award Letter for the award of PRSUs. For PRSUs, as soon as practicable following the end of the Performance Period, the Committee shall make a determination of the level of attainment of the Performance Objective. The Committee may, in its sole discretion, adjust any Performance Objective as described in Section 8.5.3 of the Plan, and such adjustments, if made, shall be applied to determine not only the minimum acceptable level of achievement of the Performance Objective, but all levels of achievement for any

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Performance Objective specified in the Award Letter (from the minimum to the maximum level of achievement).

(c) *Death or Disability*. In the event of Consultant's death or permanent total disability, all RSUs and PRSUs associated with any outstanding Award shall immediately vest and settle and be delivered to Consultant (or his or her estate) as soon as administratively feasible following such event (and in all events no later than the March 15 of the calendar year following the calendar year in which such death or permanent total disability occurs). For purposes of calculating the number of Shares to be delivered in such event based on any Award of PRSUs where the Performance Period has not expired prior to the date of such event, the Performance Objective for any outstanding Awards for PRSUs shall be set at the target level (100%) set forth in each Award Letter. In the event that such event occurs after the Performance Period for any PRSU Award has expired, the Performance Objective shall be measured in accordance with the terms set forth in the Award Letter and the Award shall vest and settle in full as soon as practicable after the determination of the satisfaction of the Performance Objective.

**4. Settlement of Awards** . Except as otherwise set forth in this Agreement or an Award Letter, within thirty (30) days following the applicable Scheduled Vesting Date for an RSU or PRSU granted hereunder, the Consultant shall receive the number of Shares associated with the RSUs and PRSUs covered by and determined in accordance with each Award Letter. Notwithstanding the foregoing, the Committee shall have the sole discretion to pay cash equal to the Fair Market Value of the Shares on the Scheduled Vesting Date that would otherwise be delivered to Consultant.

**5. Nonassignability** . Except as specifically allowed by the Committee in writing, an Award shall not be transferable other than by will or the laws of descent and distribution. More particularly (but without limiting the generality of the foregoing), except as provided above an Award may not be assigned, transferred, pledged or hypothecated in any way, shall not be assignable by operation of law, and shall not be subject to execution, attachment or similar process. Any attempted assignment, transfer, pledge, hypothecation or other disposition of an Award contrary to the provisions hereof and the levy of any execution, attachment or similar process upon an Award shall be null and void and without effect.

**6. General** . Subject to the provisions of Section 4 with respect to the form of the payment for any Award settlement, the Company shall at all times during the term of this Agreement reserve and keep available such number of Shares, as determined by the Committee from time to time, as will be sufficient in the Committee's good faith determination to satisfy the requirements of this Agreement, shall pay all original issue and transfer taxes with respect to the issue and transfer of Shares pursuant hereto and all other fees and expenses necessarily incurred by the Company in connection therewith, and will from time to time use its best efforts to comply with all laws and regulations which, in the opinion of counsel for the Company, shall be applicable thereto.

**7. Successors** . The Company will require any Successor (whether direct or indirect, by purchase, merger, consolidation, operation of law or otherwise) to unconditionally assume all of the obligations of the Company hereunder. In the event that the Committee determines that a

Successor will not unconditionally assume all of the Company's obligations hereunder, the Committee may, in its sole discretion, determine to accelerate the Scheduled Vesting Dates and settlement of (and/or determine in its discretion the Performance Objective measurement for all PRSUs) all Awards granted hereunder as of a date prior to the effective date of any change in control (in which event Consultant shall not have a cause of action against the Company for a violation of this Section).

**8. No Stockholder Rights .** The Consultant shall not have any of the rights of a stockholder with respect to the Award Shares resulting from any Award prior to the issuance of Stock, if any, to the Consultant on the Scheduled Vesting Date. Notwithstanding the foregoing, with respect to any Award granted hereunder, the Consultant shall receive delivery of cash equal to the amount of the aggregate cash dividends (without interest), if any, that the Consultant did not receive but would have received if, for the period beginning on the Award Date and ending on the applicable settlement date, the Consultant had owned all of the Shares delivered (or that would have been delivered in the case of a cash payment) to the Consultant on the applicable settlement date

**9. The Plan.** The terms and provisions set forth in the Plan are incorporated herein by reference as if they were set forth herein; *provided, however*, that in the event of a direct conflict between the terms of the Plan and the terms of this Agreement, the terms of this Agreement shall govern, and *provided, further*, that any provision of the Plan that applies to Company employees receiving grants of RSUs or PRSUs shall be amended with respect to Consultant to be appropriate to Consultant's status as a consultant and not an employee of Company. Reference to provisions of the Plan are to such provisions as they shall be subsequently amended or renumbered; provided that no amendment to the Plan which adversely affects an Award shall be effective as to that Award without the written consent of the Consultant.

**10. Plan, Agreement and Award Letters Govern .** Although any information sent to or made available to the Consultant concerning the Plan and this Agreement is intended to be an accurate summary of the terms and conditions of any Award, this Agreement, the Plan and the Award Letters are the authoritative documents governing the Award and any inconsistency between the Agreement, the Plan and the Award Letter, on one hand, and any other summary information, on the other hand, shall be resolved in favor of the Agreement, the Plan and the Award Letter.

LEVEL 3 COMMUNICATIONS, INC.  
("Company")

THOMAS C. STORTZ  
("Consultant")

By: /s/ Laurinda Y. Pang

By: /s/ Thomas C. Stortz

Title: Executive Vice President

**EXHIBIT A**  
**RSU Award Letter**

**Personal & Confidential**

Thomas C. Stortz  
[Address]  
[Address]

Dear Tom:

This Award Letter is delivered to you (the “Participant”) pursuant to the Restricted Stock Unit and Performance Restricted Stock Unit Master Award Agreement (the “Master Agreement”) dated as of \_\_\_\_\_, as well as the Plan (as defined in the Master Agreement).

The terms and conditions of this Award are set forth below and in the Master Agreement and the Plan, the provisions of which are incorporated herein by reference.

- A. The date of grant of this Award is \_\_\_\_\_ (the “Award Date”).
- B. The number of RSUs subject to this Award is \_\_\_\_\_.
- C. The Scheduled Vesting Date(s) for this Award are:

LEVEL 3 COMMUNICATIONS, INC.

BY: \_\_\_\_\_  
ITS: \_\_\_\_\_

PARTICIPANT: \_\_\_\_\_

**EXHIBIT B**  
**PRSU Award Letter**

**Personal & Confidential**

Thomas C. Stortz  
[Address]  
[Address]

Dear Tom:

This Award Letter is delivered to you (the “Participant”) pursuant to the Restricted Stock Unit and Performance Restricted Stock Unit Master Award Agreement (the “Master Agreement”) dated as of \_\_\_\_\_, as well as the Plan (as defined in the Master Agreement).

The terms and conditions of this Award are set forth below and in the Master Agreement and the Plan, the provisions of which are incorporated herein by reference.

A. The date of grant of this Award is \_\_\_\_\_ (the “Award Date”).

B. The number of PRSUs subject to this Award is \_\_\_\_\_.

C. The Scheduled Vesting Date(s) for this Award are:

[To be determined by the Committee for each Award Letter]

D. The Performance Period begins on \_\_\_\_\_ and ends on \_\_\_\_\_.

E. The Performance Objective:

[To be determined by the Committee for each Award Letter]

LEVEL 3 COMMUNICATIONS, INC.

BY: \_\_\_\_\_  
ITS: \_\_\_\_\_

PARTICIPANT: \_\_\_\_\_