

November 19, 2018

**VIA EMAIL (LEWIS.PULLEY@FCC.GOV)**

EEO Staff  
Policy Division, Media Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Dear EEO Staff:

This letter responds to the letter dated October 4, 2018 from the FCC's Media Bureau to Layer3 TV, Inc. ("Layer3 TV"), in connection with a random Equal Employment Opportunity ("EEO") audit in accordance with Section 76.77(d) of the Commission's rules.<sup>1</sup> This response is submitted on behalf of Layer3 TV's one employment unit (the "Unit"). The Unit employs more than six full-time employees. The responses set forth below are associated with the specific questions raised in the EEO Audit Letter.

**3. *Audit Data Requested.***

- (a) *The employment unit's most recent EEO program information, described in 47 CFR § 76.1702(b), which should have been placed in the unit's public file by October 1, 2016.<sup>2</sup> If the unit has a website, provide its web address. If the unit's most recent (2016) EEO public file report is not included on or linked to by the website, in violation of 47 CFR § 76.1702(b), provide an explanation of why the report is not so posted or linked to. If the unit does not have its own website, but its corporate site contains a link to a site pertaining to the unit, then the unit's most recent EEO public file report must be linked to either the unit's site or the general corporate site, pursuant to 47 CFR § 76.1702(b).***

A copy of the Unit's most recent EEO program information for the period covering October 1, 2017 to September 30, 2018 (the "Audit Period") is attached hereto in Exhibits 1 and 2.<sup>3</sup> Layer3 TV is an Internet Protocol-based Television ("IPTV") multichannel video programming distributor ("MVPD"). As such, it is subject to the Commission's EEO rules.<sup>4</sup> However, Layer3 TV, like other IPTV MVPDs, is not subject to the Commission's online public file rules set forth in

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<sup>1</sup> 47 C.F.R. § 76.77(d).

<sup>2</sup> Pursuant to discussions with Commission staff, Layer3 TV was advised that the correct date is October 1, 2018, not October 1, 2016, and has responded accordingly.

<sup>3</sup> Additional information concerning the contents of the exhibits is included in the attached cover sheets for each exhibit.

<sup>4</sup> 47 C.F.R. § 76.71(a) (rules in Part 76, Subpart E (EEO) apply to, among others, "any multichannel video programming distributor.").

Section 76.1700 of the Commission's rules. Accordingly, it does not have an FCC-hosted online public inspection file, and a copy of the Commission's EEO audit letter and this response will not be placed in such a file.

Layer3 TV also notes that during the Audit Period (specifically, on January 23, 2018), Layer3 TV was acquired by T-Mobile US, Inc. Accordingly, portions of the Unit's EEO program information attached in Exhibit 1 and other information provided in this response cover the period prior to such acquisition, while other portions pertain to the period after the acquisition.

Layer3 TV has a website, <https://layer3tv.com/>. The current EEO public file report is not posted on the Layer3 TV website for the reasons set forth above.

- (b) *For each full-time position filled during the period covered by the above EEO program information, or since your acquisition of the unit, if after that period, dated copies of all advertisements, bulletins, letters, faxes, e-mails, or other communications announcing the position, as described in 47 CFR § 76.75(c)(3). Include copies of all job announcements sent to any organization (identified separately from other sources) that has notified the unit that it wants to be notified of unit job openings, as described in 47 CFR § 76.75(b)(1)(ii). Also include the date that each position was filled and the recruitment source that referred the hiree, as described in 47 CFR § 76.75(c)(6).***

Attached as Exhibit 3 are representative copies of the notices used by the Unit to announce the vacancies for the full-time positions filled at the Unit during the Audit Period.<sup>5</sup> Each notice was sent to the recruitment sources listed in Exhibit 1. To Layer3 TV's knowledge, no recruitment source requested to be notified of the Unit's full-time job openings during the Audit Period. The date that each position was filled, and the recruitment source that referred the hiree, are provided in the EEO program information included in Exhibits 1 and 2.<sup>6</sup>

- (c) *In accordance with Section 76.75(c)(5), the total number of interviewees for each vacancy and the referral source for each interviewee for all full-time unit***

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<sup>5</sup> Layer3 TV has confirmed with Commission staff that in order to reduce the burden of responding to this audit, where a job notice was sent to multiple sources, it is permissible for Layer3 TV to provide only one copy of each such notice, along with a list of the sources to which it sent the notice.

<sup>6</sup> As used in Exhibits 1 and 2, the source referred to as "unknown" identifies internal candidates or candidates who elected not to indicate a referral source; in addition, for a limited time during the Audit Period there was a minor system error which prevented the collection of this data and thus the source is unknown. This system error was subsequently fixed.

***vacancies filled during the period covered by the above-noted EEO program information.***

The total number of interviewees for each vacancy for the Audit Period and the referral sources for the interviewees are provided in the EEO program information included in Exhibit 2. The total number of interviewees for the Audit Period was 347.

- (d) ***Documentation demonstrating performance of unit recruitment initiatives described in 47 CFR § 76.75(b)(2) during the time period covered by the above-noted EEO program information, such as participation at job fairs, engaging in mentoring programs, and providing training for staff. Specify the unit personnel involved in each such recruitment initiative. Also, provide the total number of full-time employees of the unit and state whether the population of the market in which the unit is located is 250,000 or more. Based upon these two factors, determine and state whether the unit is required to perform one or two initiatives within a 12-month period, pursuant to 47 CFR § 76.75(b)(2).***

As of September 30, 2018, the Unit had a total of [REDACTED] full-time employees. The population of the market in which the Unit is headquartered is greater than 250,000.<sup>7</sup> As such, the Unit is required to perform two initiatives within a 12-month period pursuant to 47 C.F.R. § 76.75(b)(2). The Unit engaged in multiple recruitment initiatives during the Audit Period, as shown in Exhibit 1, along with the relevant Unit personnel involved in each recruitment activity. As demonstrated in Exhibit 1, the Unit has exceeded the minimum number of required recruitment initiatives during the Audit Period.

The Unit embraces diversity and inclusion. The Unit currently incorporates six national Diversity and Inclusion networks with individual local chapters. The networks are a source of support and outreach, as well as a way for employees to connect and increase awareness around different diverse groups. Additional information about each network is included below:

- Access for Disabilities Network (ADN): ADN provides an environment that advocates and supports our employees living with disabilities and their families, and allows all employees an opportunity to broaden their understanding and awareness regarding the unique needs and talents of individuals with disabilities.

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<sup>7</sup> The Unit is located in the Denver Metro Area which has a population of approximately 2.8 million people.

- Veterans and Allies Network (VAN): VAN seeks to increase awareness around veteran culture, the positive impact veterans add to the business and how veteran's values of respect, integrity, loyalty and honor match the Unit's values.
  - Multicultural Network (MCN): MCN is an affiliation of company leaders working to accelerate business growth through cultural awareness and alignment in people, product and processes. The group strives to explore, cultivate and celebrate leadership in cultural diversity. In addition, this group continuously explores ways to educate and advance cultural diversity at all levels of leadership to reflect our employee and customer base.
  - Multigenerational Network (MGN): MGN provides an opportunity to connect with a wide community of employees and customers to promote a productive and engaging multigenerational work environment. Its mission is to showcase the contributions of all generations to better understand our various motivations, perspectives, challenges and experiences.
  - Pride & Allies Network (PAN): PAN is a resource and advocate for information, consultation and education on sexual orientation and gender identity issues, enhancing the company as a safe, accepting and exceptional workplace for all employees, moving the business forward to greater growth.
  - Women's Leadership Network (WLN): WLN is a group for women, men and gender nonconforming individuals who want to raise their hands to be leaders and change our workplace for the better. Its mission is to be famous for encouraging women to lead from every chair, tenaciously defend our share of voice and authentically lead in all facets of life.
- (e) ***Disclose any pending or resolved complaints involving the unit filed during the past five years before any body having competent jurisdiction under federal, state, territorial or local law, alleging unlawful discrimination in the employment practices of the unit on the basis of race, color, religion, national origin, age, or sex. For each such complaint, provide: (1) a brief description of the allegations and issues involved; (2) the name(s) of the complainant and other persons involved; (3) the date of the complaint's filing; (4) the court or agency before which it is pending or was resolved; (5) the file or case number; and (6) the disposition and date thereof or current status. Note that all complaints must be reported, regardless of their status or disposition.***



- (f) *In accordance with 47 CFR § 76.75(f), describe the unit's efforts to analyze its recruitment program to ensure that it is effective in achieving broad outreach and how the unit has addressed any problems found as a result of such analysis.*

The Unit provides equal employment opportunities to all qualified individuals. It is the policy of the Unit that all decisions concerning the employment relationship, including but not limited to recruitment, hiring, promotions, transfers, demotions, layoffs, recalls, terminations, training, compensation, and benefits are made without regard to age, race, ethnicity, color, religion, creed, sex, sexual orientation, gender identity or expression, national origin, marital status, veteran status, the presence of any physical or mental disability, or any other status or characteristic protected by federal, state, or local law and are based only on valid job requirements. Consistent with its obligations under federal law, the Unit is committed to taking affirmative action to hire and advance in employment qualified minorities, women, individuals with disabilities, and protected veterans. The Unit will also provide qualified applicants and employees with disabilities with needed reasonable accommodation, as required by law, and will ensure that all employment decisions are based only on valid job requirements.

Discrimination or harassment based upon any of these factors is wholly inconsistent with how the Unit does business and will not be tolerated. Furthermore, such discrimination or harassment may violate federal, state, or local law. It is the Unit's policy that employees and applicants will not be subjected to harassment, intimidation, threats, coercion or discrimination because they have: (1) filed a complaint; (2) assisted or participated in an investigation, compliance review hearing or any other activity related to the administration of any federal, state or local law requiring equal employment opportunity; (3) opposed any act or practice made unlawful by any federal, state or local law requiring equal opportunity; or (4) exercised any other right protected by federal, state or local law requiring equal opportunity.



The Unit periodically analyzes its personnel actions and their effects to ensure compliance with its EEO policy. The Unit also periodically reviews its EEO processes and makes any necessary modifications, if needed. All employees are responsible to act in accordance with the Unit's EEO policy, and all members of management are encouraged to assist the Unit's affirmative efforts in support of its EEO policy. All members of management must be familiar with this policy, must fully support it, and are responsible for applying these principles in good faith. The Unit also discusses its EEO policy thoroughly in both employee orientation and management training programs. For each full-time vacancy, the Unit's Human Resources Department coordinates EEO efforts, and assists hiring managers with job posting requirements.

The Unit informs employees and job applicants of its EEO policies and program in various ways. The Unit's EEO policies and program are provided to all new hires and the EEO policy is posted on the parent company intranet site. The Unit also provides EEO training to managers periodically. In addition, each job notice informs potential applicants that the Unit is an equal employment opportunity employer and the Unit's EEO policy is included in the Unit's application for employment.

- (g) *In accordance with 47 CFR § 76.75(g), describe the unit's efforts to analyze its EEO policies and employment practices to examine seniority, promotions, pay, benefits, selection techniques, and tests to ensure that they provide equal opportunity and do not have a discriminatory effect, and if the unit has one or more union agreements, describe how the unit cooperates with each union to ensure EEO policies are followed for the unit's union-member employees and job applicants. Address any problems found as a result of this 47 CFR § 76.75(g) analysis and how the unit has resolved them.*

The Unit reviews its EEO policies and program for compliance and effectiveness by conducting periodic internal reviews. The Unit encourages management to identify organizations to add to the Unit's list of recruitment sources.

The Unit undertakes efforts to ensure that the Unit's pay, benefits, seniority practices, promotions, and selection techniques and tests provide equal employment opportunities. The following personnel activities are reviewed, as necessary and desirable, to ensure nondiscrimination and EEO for all individuals without regard to their age, race, color, religion, creed, sex, sexual orientation, gender identity or expression, national origin, marital status, veteran status, the presence of any physical or mental disability, or any other status or characteristic protected by federal, state, or local law:

1. Recruitment, advertising, and job application procedures;

2. Hiring, promotion, upgrading, layoff, recall from layoff;
3. Rates of pay and any other forms of compensation including fringe benefits;
4. Job assignments, job classifications, and job descriptions;
5. Sick leave, leaves of absence, or any other leave;
6. Training, attendance at professional meetings and conferences; and
7. Any other term, condition, or privilege of employment.

The Unit's employees are reviewed periodically by management, and pay is reviewed annually. The Unit endeavors to ensure that the compensation for each position is comparable to other employees with similar job descriptions and to other similar jobs in the local marketplace. With regard to benefits, all full-time employees are entitled to the same benefit package.

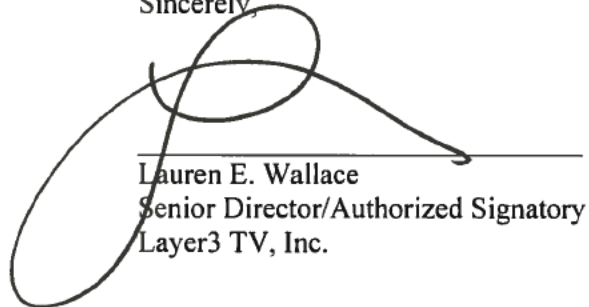
With respect to promotions, the Unit encourages employees to apply for available positions within the Unit and its affiliates. When there is an opportunity to promote from within, the Unit looks at the employee's qualifications, seniority, experience, attitude, leadership skills, and overall approach to their work.

The Unit does not have any union agreements.

I hereby certify to the accuracy and completeness of this response.

Please contact my colleague Austin Gaddis (202-654-5965) if you have any questions. You may also contact our counsel, David O'Connor, at 202-783-4141, or [doconnor@wbklaw.com](mailto:doconnor@wbklaw.com).

Sincerely,



Lauren E. Wallace  
Senior Director/Authorized Signatory  
Layer3 TV, Inc.

Attachments

## **EXHIBIT 1**

1. The attached Excel spreadsheet contains a list of all full-time vacancies filled by the Unit during the Audit Period, identified by job title. There are four tabs (Post-acquisition Interviewees, Pre-acquisition Interviewees, Recruitment Sources, and Recruitment Initiatives).
2. For each full-time vacancy, the Unit utilized all of the recruitment sources listed in the Recruitment Sources tab.
3. The recruitment source that referred the hiree for each full-time vacancy is identified in the Pre-acquisition Interviewees and Post-acquisition Interviewees tabs.
4. The total number of persons interviewed for full-time vacancies during the Audit Period was 347.
5. A list and brief description of the initiatives undertaken pursuant to §76.75(b)(2) during the Audit Period is provided in the Recruitment Initiatives tab.



## **EXHIBIT 2**

Attached is a summary of the total number of interviewees for each position, and the total number of interviewees referred by each recruitment source.

## **EXHIBIT 3**

Attached are representative copies of the notices used by the Unit to announce the vacancies for the full-time positions filled at the Unit during the Audit Period.