

NEXT LEVEL COMMUNICATIONS INC
Form SC 14D9/A
February 19, 2003

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14D-9

(Rule 14d-101)

**SOLICITATION/RECOMMENDATION STATEMENT UNDER
SECTION 14(d)(4) OF THE SECURITIES EXCHANGE ACT OF 1934**

(Amendment No. 5)

NEXT LEVEL COMMUNICATIONS, INC.

(Name of Subject Company)

NEXT LEVEL COMMUNICATIONS, INC.

(Name of Person(s) Filing Statement)

Common Stock, Par Value \$0.01 Per Share

(Title of Class of Securities)

65333U 10 4

(CUSIP Number of Class of Securities)

Keith A. Zar

Senior Vice President and General Counsel

Next Level Communications, Inc.

6085 State Farm Drive

Rohnert Park, California 94928

(707) 584-6820

(Name, address and telephone number of person authorized to receive notices and
communications on behalf of the persons filing statement)

with a copy to:

John J. Huber, Esq.

Latham & Watkins LLP

555 11th Street, N.W., Suite 1000

Washington, D.C. 20004

(202) 637-2200

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135 Commonwealth Drive

Menlo Park, California 94025

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.. Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

This Amendment No. 5 amends and supplements the Schedule 14D-9 initially filed with the Securities and Exchange Commission (the Commission) on February 4, 2003 (as amended, the Schedule 14D-9) by Next Level Communications, Inc., a Delaware corporation (Next Level), relating to the tender offer by Motorola, Inc. (Motorola) to purchase all of the issued and outstanding shares of Next Level common stock par value \$.01 per share (the Shares) not owned by Motorola or its affiliates at a price of \$1.04 per Share, net to each seller in cash, upon the terms and subject to the conditions set forth in Motorola's Offer to Purchase dated January 27, 2003 and the related Letter of Transmittal (which together constitute the Motorola Offer). The Motorola Offer is disclosed in a Tender Offer Statement, Rule 13e-3 Transaction Statement and Schedule 13D/A filed with the Commission under cover of Schedule TO, dated January 27, 2003, as amended. Capitalized terms used herein and not otherwise defined have the respecting meanings ascribed to them in the Schedule 14D-9. Next Level has made information regarding the Motorola Offer available on its website, located at <http://www.nlc.com>.

ITEM 9. EXHIBITS.

Item 9 of the Schedule 14D-9 is hereby amended and supplemented by adding the following thereto:

- (a)(1)(v)* Letter to Stockholders of Next Level dated February 19, 2003.
- (a)(1)(vi)* Press Release dated February 19, 2003.

* Filed herewith.

SIGNATURE

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Dated: February 19, 2003

NEXT LEVEL COMMUNICATIONS, INC.

By: /s/ J. MICHAEL
NORRIS

Name: J. Michael
Norris

Title: Chairman of the
Board and

Chief Executive
Officer