Morgan Lewis

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May 3, 2021

***Via Electronic Filing and First Class Mail***

Marlene H. Dortch, Secretary
Federal Communications Commission
45 L Street, N.E.
Washington, DC 20554

**Re: ERRATA**
**Petition of Bandwidth Inc. and Bandwidth.Com CLEC, LLC to Reject or Suspend and Investigate**

Dear Ms. Dortch:

On April 30, 2021, Bandwidth Inc. and Bandwidth.com CLEC, LLC (collectively, "Bandwidth") filed the above referenced Petition, relating to the April 23, 2021 Teliax, Inc. Transmittal No. 7, via the Commission's Electronic Tariff System. Bandwidth is filing this Errata to serve the Petition included herein as Attachment A, on Mr. Gil Strobel, Chief of the Wireline Competition Bureau's Pricing and Policy Division ("PPD"). The initial April 30 filing was inadvertently addressed to and served on Pamela Arluk as the PPD's Chief.

Any questions regarding this submission may be directed to the undersigned.

Respectfully submitted,

*/s/ Tamar Finn*

Tamar E. Finn

*Counsel to Bandwidth Inc. and Bandwidth.com CLEC, LLC*

cc: (*Transmittal Only Via E-Mail*)
Kris Monteith
Pamela Arluk
David Aldworth
Carey Roesel

**ATTACHMENT A**

**Before the**
**Federal Communications Commission**
**Washington, D.C. 20554**

In the Matter of

Teliax, Inc.
Tariff F.C.C. No. 1

Transmittal No. 7

**PETITION OF BANDWIDTH INC. AND BANDWIDTH.COM CLEC, LLC TO REJECT OR SUSPEND AND INVESTIGATE**

Pursuant to Section 1.773 of the Commission's rules, Bandwidth Inc. and Bandwidth.com CLEC, LLC (collectively, "Bandwidth") respectfully requests that the Commission reject the April 23, 2021 tariff filing of Teliax, Inc. ("Teliax"), or in the alternative, that the Commission suspend and investigate the tariff and reject it upon confirming its unlawfulness. Bandwidth agrees with CenturyLink and Level 3[1] that Teliax's proposed tariff revision, even as amended, is unlawful for multiple independent reasons, each of which is sufficient to reject the tariff.

First, Teliax is tariffing Internet Protocol ("IP" or Session IP ("SIP")) interconnection charges that are not regulated switched access under the FCC's rules. In the *Transformation Order*,[2] the intercarrier compensation (ICC) regime the Commission adopted for a local exchange carrier's ("LEC's") exchange of VoIP traffic applies to the exchange of "VoIP-PSTN" traffic where such exchange "occurs in Time-Division Multiplexing (TDM) format (and not in IP format)...." *Transformation Order* ¶ 940. This means, among other things, carriers that originate VoIP traffic and exchange that traffic with their carrier customers in VoIP format must arrange for

[1] Petition of CenturyLink Communications, LLC and Level 3 Communications, LLC to Reject or Suspend and Investigate (filed Mar. 23, 2021).
[2] *Connect Am. Fund,* et al., WC Docket No. 10-90, et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (subsequent history omitted) *(Transformation Order).*

compensation for that exchange through commercial agreements. *Id.* ¶ 1340. Teliax's tariff filing does not comply with these requirements.

Second, Teliax is not performing a new function that it never before performed. Rather, it is attempting to add a new rate element to create a revenue stream to replace others the Commission has foreclosed. Teliax's tariff therefore violates the Commission's prohibition on tariffing new rate elements to create new revenue opportunities. *See Transformation Order* ¶ 801, *see also 8YY Order*[3] ¶ 64 (refusing to include dedicated transport in per minute of use rate because it could "offer a windfall to the competitive carriers that do not typically charge for those services and increase, rather than decrease, the cost of 8YY service").

Third, Teliax violates the Commission's benchmark rule. ILECs do not assess tariffed dedicated access on SIP connections because this service cannot be tariffed for the reasons set forth above. Thus, Teliax violates the benchmark because it is charging for a service for which its competing ILECs do not assess tariffed charges.

Finally, Teliax's proposal is flawed because, as the Commission has acknowledged, access revenues should not be inflated by inefficiently requiring exchange of traffic over TDM facilities. *See e.g., 8YY Order* ¶ 105. SIP connections are not based on DS1 equivalents and routinely exchange far more minutes than a traditional TDM connection. The Commission's and industry's expectation is that SIP interconnection should ***reduce***, not equal, TDM interconnection charges.

For all these reasons, Teliax's proposed tariff should be summarily rejected. In the alternative, the Commission should investigate the tariff, while either rejecting or suspending the tariff while the investigation is pending.

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[3] *In the Matter of 8YY Access Charge Reform*, Report and Order, 35 FCC Rcd 11594 (2020) (*8YY Order"*).

Respectfully submitted,

By: *___/s/ Greg Rogers______________*

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*Attorney for Bandwidth Inc. and Bandwidth.com CLEC, LLC*

Dated: April 30, 2021

## CERTIFICATE OF SERVICE

I, M. Renee Britt, certify that on the 3rd day of May, I caused a copy of the foregoing Petition of Bandwidth Inc. and Bandwidth.com CLEC, LLC to Reject or Suspend and Investigate to be served on the following parties as noted below:

| | |
|---|---|
| Gil Strobel, Chief<br>Pricing Policy Division<br>Wireline Competition Bureau<br>Federal Communications Commission<br>45 L Street NE<br>Washington, DC 20554<br>Gil.Strobel@fcc.gov<br>***(Via Electronic and U.S. First Class Mail)*** | Marlene H. Dortch, Secretary<br>Federal Communications Commission<br>Office of the Secretary<br>45 L Street NE<br>Washington, DC 20554<br>***(Via U.S. First Class Mail)*** |

*/s/ M. Renee Britt*

M. Renee Britt