

November 15, 2012

Via Electronic Filing

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Notice of Ex Parte Communication CC Docket No. 96-45;
CC Docket No. 01-92; WC Docket No. 03-109; WC Docket
No. 05-337; WC Docket No. 07-135; WC Docket No. 10-90;
GN Docket No. 09-51

Dear Ms. Dortch:

On November 13, 2012, Greg Rogers of Bandwidth.com, Inc. (“Bandwidth”), the undersigned, on behalf of Bandwidth, Michael Mooney, Andrea Pierantozzi, and Mack Greene of Level 3 Communications, LLC (“Level 3”), and John Nakahata of Wiltshire & Grannis, LLP, as counsel to Level 3, met with Deena Shetler, Randy Clarke, and Rhonda Lien of the Wireline Competition Bureau.

The discussion was consistent with the views expressed in Level 3’s and Bandwidth’s October 4, 2012, ex parte letter. The participants reviewed Attachment A to Level 3’s and Bandwidth’s September 10, 2012, ex parte letter, which demonstrates how each of the core switching functions outlined in Revised Responsible Accounting Officer (“RAO”) Letter 21 (“Revised RAO 21”) is performed by the CLEC or its VoIP partner, and not by the facilities-based broadband ISP through which the VoIP provider interacts with its customer. This demonstrates that, for an over-the-top VoIP service, it is the CLEC and VoIP provider that provide the functions equivalent to those provided by an incumbent LEC when it assesses local switching charges pursuant to 47 C.F.R. § 69.106. Accordingly, CLECs such as Level 3 and Bandwidth are entitled, under 47 C.F.R. § 51.913, to assess local switching access charges on interexchange carriers such as AT&T for access traffic that terminates to a subscriber of Level 3’s or Bandwidth’s VoIP provider partner, so long as that partner does not itself assess such charges.

Bandwidth and Level 3 requested that the Bureau or Commission issue an order clarifying that a CLEC may assess local switching access charges for over-the-top VoIP services when its VoIP partner is not also doing so, but together they are providing the core switching functionalities as delineated in Revised RAO 21. As

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with its February 27, 2012 Order, the Bureau has the authority to do so, and can issue such a letter based on the information already in the docket.

Respectfully submitted,

/s/

Tamar E. Finn
Counsel to Bandwidth.com, Inc.

cc: Deena Shetler
Randy Clarke
Rhonda Lien
John Nakahata