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December 15, 2006

Mr. Alex Starr, Chief  
Market Disputes Resolution Division  
Enforcement Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room 5C828  
Washington, D.C. 20554

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RE: *Bright House Networks, LLC v. Tampa Electric Company*, File No. EB-06-MD-003

Dear Mr. Starr:

On behalf of Tampa Electric Company, we are providing the Commission with supplemental authority from matters that were decided after the close of the pleading cycle in the referenced proceeding. These decisions support Tampa Electric's contention that wholesale transport of communications traffic by Bright House Networks Information Service, LCC over the pole attachments at issue in this proceeding constituted telecommunications, regardless of whether the communications bring transported were themselves telecommunications.

One case is the Commission's own decision in WC Docket No. 06-10, *United Power Line Council's Petition for Declaratory Ruling Regarding the Classification of Broadband over Power Line Internet Access Service as an Information Service*, 39 CR 1092 (November 07, 2006). Addressing the transmission component of BPL-enabled Internet access, the Commission said, "We agree that the transmission underlying BPL-enabled Internet access is "telecommunications" because it provides "transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received."

The other case is *Berkshire Telephone Corporation, et al., v. Sprint Communications Company, L.P., New York Public Service Commission, et al.*, 2006 U.S. Dist. LEXIS 78924 (US District Court, Western District of New York, October 30, 2006). Addressing the fact that two companies, Sprint and Time Warner Communications, together provided the different individual components of a telephone system, the court found that Sprint was in fact a telecommunications carrier when it transported Time Warner's VoIP traffic.

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- COM \_\_\_\_\_
- CTR \_\_\_\_\_
- ECR \_\_\_\_\_
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- OPC \_\_\_\_\_
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- SEC
- OTH \_\_\_\_\_

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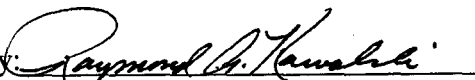
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December 15, 2006  
Page 2

This authority is being brought to the Commission's attention in the interest of a complete record.

Respectfully submitted,

TAMPA ELECTRIC COMPANY

By:   
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Its Counsel

cc: Lisa Griffin  
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