

ORIGINAL



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April 13, 2005

**BY HAND DELIVERY**

Mr. Ernie Padgett, County Administrator  
Manatee County  
1112 Manatee Avenue West, Suite 920  
Bradenton, Florida 34205

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COMMISSION  
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**Re: Bright House Complaint Letter Dated April 7, 2005**

Dear Mr. Padgett:

This letter responds to Bright House's unfounded and erroneous "formal complaint" regarding the cable cuts that occurred in the vicinity of 8800 State Road 70 East, at approximately 8:00 a.m. on Wednesday, April 6, 2005.

Bright House complains that Verizon's contractor negligently cut two of its fiber-optic cables. In support of this contention, Bright House relies on photographs of the job site that show white lines, which Bright House alleges denote boring locations, intersecting with orange lines, which Bright House alleges identify the location of Bright House's fiber-optic cables.

Bright House's reliance on these photographs is wrong for three reasons.

First, Bright House misconstrues the significance of the white and orange lines that were painted on the pavement. In actuality, the white lines denote the depth of cables in certain instances, and the boring location in others, and the orange lines identify the location of cables.

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Second, even if Bright House's characterization were correct, which it is not, the fact that photographs show white lines intersecting orange lines would not prove Bright House's claim, because boring companies often bore above or below the underground lines denoted by the orange marks on the pavement (*i.e.*, the bore is at a different depth than the facility and therefore misses it altogether).

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Third, and most important, these photographs are meaningless because Bright House does not allege, nor do the photographs show, that Bright House accurately identified and marked the location of the severed cables. To the contrary, a Bright House inspector admitted that the cable company failed to mark the location of the cables at

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issue. Specifically, Tom Wright, who works as an inspector for Bright House, admitted to Reuben Barbosa, who works for the boring contractor, that Bright House failed to mark the location of the cables that were ultimately severed.

Bright House also complains that Verizon negligently, "perhaps intentionally," failed to stop drilling, and failed to provide immediate notice, when it learned of the cable cuts. The allegation that Verizon acted negligently in these respects is flatly wrong, and the unfounded allegation that Verizon may have intentionally violated the law is irresponsible.

The allegation that Verizon acted negligently in not stopping and failing to immediately notify Bright House is premised on the assumption that Verizon became aware of the cable cuts as soon as they occurred. This assumption is incorrect. The cables at issue, which were approximately  $\frac{1}{2}$  and  $\frac{3}{4}$  inch in diameter, buried approximately 3 to 4 feet underground, and located approximately 12 feet away from the boring platform, were severed by a Ditch Witch 4020 Directional Bore during the pull back process using a reamer attached to a 5  $\frac{1}{2}$  inch rod. The directional bore, which is powered by a 185 horsepower, six-cylinder, diesel engine, operates at 36,000 lbs of forward-thrust and 40,000 lbs of pull-back pressure. Under these circumstances, it is unrealistic to assume – as Bright House did – that Verizon's contractor became aware of the cable cuts as soon as they occurred. Indeed, it is nonsensical to assume the cuts were made and the contractor continued digging in the same area during that time. When the Bright House representative arrived to inform the contractor of the cuts, the contractor immediately stopped drilling and Verizon commenced an investigation of the incident. Accordingly, as stated above, the allegation that Verizon acted negligently in not stopping and failing immediately to notify Bright House is incorrect and the allegations of intentional misconduct are baseless.

Based on its unfounded and erroneous allegations of a single incident, Bright House now requests that the County undertake actions that would significantly delay the onset of meaningful competition in Bright House's serving territory. Bright House makes this request even though it has damaged or severed at least 77 Verizon lines over the last five years in a five county area, it never discussed the root cause of the current incident with Verizon, and, worse, it never served a copy of the complaint on Verizon.

Perhaps the incumbent cable company's actions should not be surprising given the impressive capabilities of the facilities that Verizon is placing in Manatee County, and the competitive threat that they pose to Bright House. These facilities will allow Verizon to provide unsurpassed data speeds and capacities to customers, while also delivering a cable-like video product that is superior to anything in the market today in both content and value. That said, Bright House's attempts to stymie competition at the expense of consumers must be denied, because Bright House's complaint rests on unsubstantiated

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and incorrect allegations against Verizon that were made in disregard of the burden to the County and the potential detriment to Florida consumers.

Please contact me at the above-referenced number if you have any questions or comments.

Sincerely,

Handwritten signature of Richard A. Chapkis in black ink, with a stylized flourish at the end of the name.

Richard A. Chapkis  
Attorney for Verizon Florida Inc.

cc: FPSC, Attn: Blanca S. Bayo, Commission Clerk (hand delivery)  
Frizette McCarthy, Manatee County Communications Coordinator (hand delivery)  
Craig England, Manatee County Right-of-Way Supervisor (hand delivery)  
Robert Michael Eschenfelder, Assistant County Attorney (hand delivery)  
Gregory J. Porges, Counsel for Bright House (e-mail)