

ORIGINAL

REGISTRATION CENTER

RECEIVED FPSC

05 AUG 15 AM 9:28

AUG 15 AM 10:20

Leigh A. Hyer
Vice President & General Counsel, Southeast Region
Legal Department

verizon
COMMISSION
CLERK

201 N. Franklin Street (33602)
P.O. Box 110, FLTC0717
Tampa, FL 33601

Phone: 813-483-1256
Fax: 813-204-8870
leigh.a.hyer@verizon.com

BY HAND DELIVERY

August 12, 2005

Mr. Larry R. Mau, P.E.
Transportation Director
Manatee County
1022 26th Avenue East
Bradenton, FL 34208

Re: Bright House Networks Complaint Regarding July 12, 2005 Cable Cut

Dear Mr. Mau:

This letter responds to Bright House Networks' ("Bright House") "formal complaint" against Verizon regarding a cable cut that occurred at Pro Am Avenue East and Clubview Court East on Tuesday, July 12, 2005.

Bright House claims that Verizon's contractor, Viasys Network Services, Inc. ("Viasys"), negligently cut Bright House-owned fiber optic lines. In support of this allegation, Bright House relies on photographs of the job site that show an orange line identifying the location of Bright House's fiber optic cables. These photographs, however, do not support Bright House's claim of negligence.

To the contrary, the orange line does not identify the depth of the Bright House cable, but only its horizontal location. Consistent with industry practice, boring companies often bore above or below the underground lines denoted by the orange marks on the pavement where the bore is at a different depth than the facility. Verizon's investigation of this matter reveals that Verizon's contractor checked the depth of all utilities (including the Bright House cable) at potholes on both sides of the street at the corner of Pro Am Avenue East and Clubview Court East and determined that the Bright House cable was buried at 24 inches. However, it was later discovered that the Bright House cable descends from a depth of 24 inches to a depth of approximately 5 feet as it crosses under Clubview Court East. The contractor had no way of knowing this, since the depth is not noted by marks on the pavement. At the point of impact, the contractor's boring stem was at a depth of 43 inches, which would have been a safe depth if the Bright House cable had remained at a depth of 24 inches. Thus, there was nothing negligent about the contractor's actions.

CMP _____
COM _____
CTR _____
ECR _____
GCL _____
OPC _____
RCA _____
SCR _____
SGA _____
SEC 1
OTH _____

Bright House next claims that Viasys "failed to give immediate notice regarding the destruction of BHN's fiber optic line" and that it only knew about the damage from its own "sophisticated system status monitoring system" and customer calls complaining of the outage. This is demonstrably false. Nextel call records from the mobile telephone of the Viasys supervisor (attached hereto as Exhibit 1) demonstrate that the supervisor immediately notified Bright

DOCUMENT NUMBER-DATE

07890 AUG 15 05

FPSC-COMMISSION CLERK

Mr. Larry R. Mau
August 12, 2005
Page 2

House of the damage in accordance with the requirements of Chapter 556 of the Florida Statutes.

Specifically, Verizon's investigation reveals that, after hitting the Bright House cable at approximately 2:50 pm, work crews stopped work and immediately notified the Viasys supervisor. By 3:00 pm, the Viasys supervisor had arrived at the site of the accident and verified that the bore had, in fact, damaged a Bright House cable.

Call records show that, at 3:09 pm, the Viasys supervisor called Robert Mason of Bright House at 813-927-1707 – the primary contact listed on the Sunshine State One Call list (the "One Call List") (attached hereto as Exhibit 2).¹ The supervisor left Mr. Mason a voicemail, notifying him of the damage to the Bright House lines, the location of the damage, and a call-back number.

At 3:13 pm, the Viasys supervisor again attempted to reach Mr. Mason at the second Bright House contact number on the One Call List, 813-684-6100, ext. 32154 (Exhibits 1 & 2). The Viasys supervisor left Mr. Mason another voicemail message notifying him of the damage, the location of the accident, and a call-back number.

Having failed to reach Mr. Mason in person, the supervisor then called 411 directory assistance (Exhibit 1 at 3:14 pm) and asked to be connected to the Bradenton Bright House Network Office. Once connected, the supervisor informed a Bright House dispatcher of the damage and the location of the accident. At approximately 4:00 pm, a Bright House representative arrived at the site.

These events demonstrate that Verizon did, in fact, immediately notify Bright House of the cable cut – a fact that Bright House would have known had it discussed this matter with Verizon prior to sending its July 29, 2005 complaint letter. Instead, Bright House chose to lodge false and unsupported claims against Verizon without a reasonable investigation of the facts. Worse yet, Bright House is asking the County to take actions that would significantly delay the onset of meaningful competition in Bright House's territory. Indeed, based on false allegations arising out of a single incident within the County rights-of-way,² Bright House is asking the County to order Verizon to stop all construction activities for its innovative fiber-to-the-premises ("FTTP") project in Manatee County. 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. Moreover, Bright House is asking the County to stop Verizon's FTTP construction until Bright House receives "payment to BHN or provision for adequate security for payment to BHN by Verizon of an amount equal to the total sum of the losses to BHN." However, to date, Bright House has not even bothered to bill Verizon for any alleged damage in accordance with standard industry practice, thus revealing that it is motivated not by a desire for compensation, but by a desire to prevent Verizon from installing new facilities that will compete directly with Bright House.

¹ Sunshine State One Call of Florida is the non-profit organization created under Chapter 556 of the Florida Statutes to administer the provisions of Chapter 556, including notification of damage occurring during excavation activities. See Fla. Stat. §§ 556.101(2), 556.103.

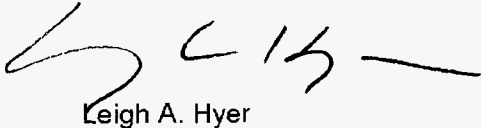
² Bright House rehashes an earlier complaint seeking substantially identical relief based on unsupported allegations of negligence arising out of an incident within the Florida Department of Transportation's right-of-way. The County rejected that complaint as falling outside its jurisdiction.

Mr. Larry R. Mau
August 12, 2005
Page 3

It is not surprising that the incumbent cable company would go to any lengths to neutralize the competitive threat posed by the facilities that Verizon is installing in Manatee County. 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 both in content and value. However, Bright House's transparent desire to stymie competition at the expense of Manatee residents is not a valid reason to halt construction of Verizon's FTTP network, and the claims in its "formal complaint" have no merit for the reasons set forth above. Therefore, the County should summarily deny Bright House's request for a cease and desist order.

Please contact me at 813-483-1256 if you have any questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read "L. A. Hyer", with a long horizontal stroke extending to the right.

Leigh A. Hyer

LAH:tas

Enclosures

- c: Ernie Padgett, Manatee County Administrator (w/e) (hand delivery)
- Frizzette McCarthy, Manatee County Communications Coordinator (w/e) (hand delivery)
- Craig England, Manatee County Right-of-Way Supervisor (w/e) (hand delivery)
- Robert Michael Eschenfelder, Assistant County Attorney (w/e) (hand delivery)
- Gregory J. Porges, Counsel for Bright House Networks (w/e)
- Blanca S. Bayo, Florida Public Service Commission (w/e)

EXHIBIT 1

Year, Month, DATE, Time (Military)	CALL TO CITY DESC	USAGE PAC CODE	BILL PRESENTATION_NO
20050712211647	BRADENTON	9417512951	9417512951
20050712182908	BRADENTON	9417794333	9417794333
20050712182759	TAMPA	8133760344	Voice Mail
20050712182633	BRADENTON,FL	BRADENTON,FL	150*571088
20050712182617	BRADENTON,FL	BRADENTON,FL	150*571088
20050712180103	BRADENTON	9417512951	9417512951
20050712175231	Incoming	9417794333	9417794333
20050712175157	BRADENTON	9417087450	9417087450
20050712172336	BRADENTON,FL	BRADENTON,FL	150*571088
20050712171953	ATLANTA NE	6785167751	6785167751
20050712171301	BRADENTON	9417529500	9417529500
20050712170258	BRADENTON,FL	BRADENTON,FL	161*35
20050712165940	SARASOTA	9418095052	9418095052
20050712161343	FTLAUDERDL	9546057353	9546057353
20050712161044	TAMPA	8132774316	8132774316
20050712160935	EUSTIS	3525166055	3525166055
20050712160301	Incoming	9417794339	9417794339
20050712154210	BRADENTON,FL	BRADENTON,FL	161*35
20050712153355	BRADENTON	9417087450	9417087450
20050712153153	Incoming	6785167751	6785167751
20050712152025	BRADENTON,FL	BRADENTON,FL	150*571088
20050712151422	DIR ASST	4110000000	4110000000
20050712151315	TAMPA EAST	8136846100	8136846100
20050712151058	BRADENTON,FL	BRADENTON,FL	161*35
20050712151014	TAMPA,FL	BRADENTON,FL	158*8
20050712150909	TAMPA	8139271707	8139271707
20050712150020	ATLANTA NE	6785167751	6785167751
20050712145341	TAMPA,FL	BRADENTON,FL	158*8
20050712145018	TAMPA,FL	BRADENTON,FL	158*8
20050712133618	BRADENTON,FL	BRADENTON,FL	161*35
20050712133335	BRADENTON,FL	BRADENTON,FL	150*571088
20050712130803	TAMPA	8139850003	8139850003
20050712130031	Incoming	3525166055	3525166055
20050712125707	TAMPA	8139850003	8139850003
20050712125333	Incoming	3525166055	3525166055
20050712124814	BRADENTON,FL	BRADENTON,FL	161*35
20050712123049	BRADENTON,FL	BRADENTON,FL	159*72876
20050712121915	Incoming	6785167751	6785167751
20050712121000	BRADENTON,FL	SARASOTA,FL	161*35
20050712115328	TAMPA	8133623205	8133623205
20050712114012	BRADENTON,FL	UNIVERSITY PAR,FL	161*35
20050712110500	Incoming	7062318372	7062318372
20050712110006	BRADENTON,FL	BRADENTON,FL	161*192167
20050712105831	BRADENTON,FL	BRADENTON,FL	161*192167
20050712105723	AUGUSTA	7062318372	7062318372
20050712105400	BRADENTON,FL	BRADENTON,FL	161*35
20050712105238	BRADENTON,FL	BRADENTON,FL	161*35
20050712105205	BRADENTON,FL	BRADENTON,FL	161*35
20050712103707	BRADENTON,FL	BRADENTON,FL	161*192167
20050712102926	BRADENTON,FL	BRADENTON,FL	161*192167
20050712102235	Incoming	9546057353	9546057353
20050712101733	SARASOTA,FL	BRADENTON,FL	158*117
20050712101626	FTLAUDERDL	9546057353	9546057353
20050712100957	Incoming	3525166055	3525166055

EXHIBIT 1

20050712100933	ATLANTA NE	6785167751	6785167751
20050712100717	EUSTIS	3525166055	3525166055
20050712100536	SARASOTA,FL	SARASOTA,FL	161*35
20050712100214	BRADENTON,FL	SARASOTA,FL	159*72876
20050712100126	Incoming	6785167751	6785167751
20050712100104	SARASOTA,FL	SARASOTA,FL	158*117
20050712100045	SARASOTA,FL	SARASOTA,FL	158*117
20050712100014	SARASOTA,FL	SARASOTA,FL	158*117
20050712095451	BRADENTON,FL	SARASOTA,FL	161*192167
20050712094231	TAMPA	8133760344	Voice Mail
20050712093747	Incoming	9546052487	9546052487
20050712093309	TAMPA	8133760344	Voice Mail
20050712090829	BRADENTON,FL	SARASOTA,FL	158*8
20050712090257	Incoming	6785167751	6785167751
20050712081322	BRADENTON	9417794333	9417794333
20050712080830	SARASOTA,FL	BRADENTON,FL	161*35
20050712080628	Incoming	6785167751	6785167751
20050712080352	Incoming	9546057353	9546057353
20050712072848	Incoming	6785167751	6785167751

EXHIBIT 2

irth
internet **SUNSHINE STATE ONE CALL OF FLORIDA**

Copyright 2005 AGT
International, Inc.
All rights reserved.

Home	Notice Creation	Notice Management	Reports	Log Off	Help
Emergency Service Area Contact List Report					
County: <input type="text" value="Manatee"/> Contact Type: <input type="text" value="Emergency"/> <input type="button" value="Search"/>					
EMERGENCY Contact List					
#	Code	Name	Contact Name	Number	
1	AS1054	AQUA UTILITY FLORIDA	BILL DEAN	Fax (941)378-3554	
2	AS1054	AQUA UTILITY FLORIDA	BILL DEAN	Phone (941)377-9456	
3	ATTF01	AT&T	ANYONE	Phone (800)622-7378	
4	BH1271	BRIGHT HOUSE NETWORKS	ROBERT MASON	(813)927-1707	
5	BH1271	BRIGHT HOUSE NETWORKS	ROBERT MASON	Fax (813)436-2149	
6	BH1271	BRIGHT HOUSE NETWORKS	ROBERT MASON	Phone (813)684-6100 x32154	
7	BRU981	BRADEN RIVER UTILITIES, INC.	JIM READY	(941)812-5184	
8	BRU981	BRADEN RIVER UTILITIES, INC.	JIM READY	Fax (941)758-7796	
9	BRU981	BRADEN RIVER UTILITIES, INC.	JIM READY	Phone (941)720-9200 x261	
10	CBPALM	BRIGHT HOUSE NETWORKS, LLC			
11	CFI293	COASTAL FUELS MARKETING, INC			
12	COBRAD	C/O BRADENTON	After Hours	Phone (941)708-6300	
13	COP876	CITY OF PALMETTO	PALMETTO POLICE DEPT	Phone (941)723-4587	
14	COSSUT	C/O SARASOTA UTILITIES	ANYONE	Phone (941)955-4838	
15	ELC345	ELCOTEL, INC.		Phone (941)758-0389 x258	
16	EPIK06	EPIK COMMUNICATIONS	N.O.C.**	Phone (888)942-1414	
17	FGT05	FLA. GAS TRANS.-LAKELAND	Operations Communication Center	Fax (713)842-8550	
18	FGT05	FLA. GAS TRANS.-LAKELAND	Operations Communication Center	Phone (800)238-5066	
19	FGT05	FLA. GAS TRANS.-LAKELAND	CURT GAVIN	(863)559-8498	
20	FGT05	FLA. GAS TRANS.-LAKELAND	CURT GAVIN	Pager (863)568-1956	
21	FGT05	FLA. GAS TRANS.-LAKELAND	CURT GAVIN	Phone (407)838-7453	
22	FGT11	FLORIDA GAS TRANSMISSION-FT MYERS	SCOTT BARKLEY	(942)628-0645	
23	FGT11	FLORIDA GAS TRANSMISSION-FT MYERS	SCOTT BARKLEY	Fax (727)725-5528	
24	FGT11	FLORIDA GAS TRANSMISSION-FT MYERS	SCOTT BARKLEY	Pager (941)857-0880	
25	FGT11	FLORIDA GAS TRANSMISSION-FT MYERS	SCOTT BARKLEY	Phone (941)628-0645	
26	FPL02	FPL-FUEL OIL PIPELINE			
27	FPLFOC	FPL FIBER OPTIC CLEARWATER	LON DELATTE	(866)553-4237	
28	FPLFOC	FPL FIBER OPTIC CLEARWATER	LON DELATTE	Fax (786)845-7266	
29	FPLFOC	FPL FIBER OPTIC CLEARWATER	LON DELATTE	Phone (866)553-4237	
30	FPLMAN	FLORIDA POWER & LIGHT--MANATEE	DISPATCHER**	Phone (800)769-6351	
31	FPLSAR	FLORIDA POWER & LIGHT--SARASOTA	DISPATCHER**	Phone (800)769-6351	
32	FPLSUB	FLORIDA POWER & LIGHT - SUBAQUEOUS	JOE HEATHERLY	Phone (772)201-6400	

EXHIBIT 2

33	GN1133	GULFSTREAM NATURAL GAS SYSTEM	ERIC RAYMOND	(941)232-2420
34	GN1133	GULFSTREAM NATURAL GAS SYSTEM	ERIC RAYMOND	Fax (941)723-7180
35	GN1133	GULFSTREAM NATURAL GAS SYSTEM	ERIC RAYMOND	Pager (941)885-0801
36	GN1133	GULFSTREAM NATURAL GAS SYSTEM	ERIC RAYMOND	Phone (941)723-7104
37	GTE384	VERIZON FLORIDA, INC.,	REPAIR RESOLUTION CENTER	Phone (800)483-1000
38	L3C900	LEVEL 3 COMMUNICATIONS	EMERGENCY	Phone (877)366-8344
39	LKU342	LONGBOAT KEY UTILITIES	LONGBOAT KEY POLICE DISPATCH	Phone (941)316-1977
40	MCT589	MANATEE COUNTY TRANSPORTATION DEPARTMENT		Phone (941)747-3011 x2490
41	MCTYPW	MANATEE COUNTY UTILITY OPERATIONS	MOHAN THAMPI	Phone (941)708-7450 x7330
42	PG1460	BRIGHT HOUSE NETWORKS	JOHN PUGH	Phone (941)345-1314 x21314
43	PGSSAR	PEOPLES GAS-SARASOTA	JEFFREY RODGER**	(813)917-6557
44	PGSSAR	PEOPLES GAS-SARASOTA	JEFFREY RODGER**	Fax (813)228-4875
45	PGSSAR	PEOPLES GAS-SARASOTA	JEFFREY RODGER**	Phone (813)228-4630
46	PGSTAM	PEOPLES GAS TAMPA	JEFFREY RODGER**	(813)917-6557
47	PGSTAM	PEOPLES GAS TAMPA	JEFFREY RODGER**	Fax (813)228-4875
48	PGSTAM	PEOPLES GAS TAMPA	JEFFREY RODGER**	Phone (813)228-4630
49	PGTV02	BRIGHT HOUSE NETWORKS, LLC		
50	PGTV04	PARAGON CABLE - TAMPA		Phone (813)684-6100 x325
51	PRE463	PEACE RIVER ELECTRIC COOPERATIVE, INC.	TONY RODRIGUEZ	Fax (863)773-4291
52	PRE463	PEACE RIVER ELECTRIC COOPERATIVE, INC.	TONY RODRIGUEZ	Phone (863)722-2729
53	PRE463	PEACE RIVER ELECTRIC COOPERATIVE, INC.	TONY RODRIGUEZ	Phone (863)773-4116 x640
54	PRE498	PEACE RIVER ELECTRIC COOPERATIVE, INC.	TONY RODRIGUEZ	Fax (863)773-4291
55	PRE498	PEACE RIVER ELECTRIC COOPERATIVE, INC.	TONY RODRIGUEZ	Phone (863)722-2729
56	PRE498	PEACE RIVER ELECTRIC COOPERATIVE, INC.	TONY RODRIGUEZ	Phone (863)773-4116 x640
57	PT1380	PROGRESS TELECOM	JOHN MOGG	(727)224-5284
58	PT1380	PROGRESS TELECOM	JOHN MOGG	Fax (727)471-5312
59	PT1380	PROGRESS TELECOM	JOHN MOGG	Phone (727)471-5355
60	SCT912	SARASOTA COUNTY TRAFFIC	ANYONE	Phone (941)861-0972
61	SSCTYU	SARASOTA COUNTY UTILS	VICKY GUIDRY	Phone (941)378-6108
62	ST1187	STRATEGIC TECHNOLOGIES, INC.		
63	STRSAR	COMCAST CABLE - SARASOTA	DISPATCH FOR WEST FLORIDA**	Phone (941)377-4101
64	TECO01	TAMPA ELECTRIC	LORENZO JONES	Phone (813)275-3427
65	UCI853	UNIVERSAL CABLEVISION, INC.		Phone (941)758-5533
66	UNIVSF	UNIVERSITY OF SOUTH FLORIDA TELECOMM		
67	USTV01	US CABLE OF FLORIDA		Phone (803)559-5229
68	UTI300	SPRINT-FLORIDA, INC. - AVON PARK	EMERGENCY	Phone (866)240-8367
69	WCI843	WILTEL COMMUNICATIONS, LLC	WILTEL COMMUNICATIONS	Fax (918)547-9692
70	WCI843	WILTEL COMMUNICATIONS, LLC	WILTEL COMMUNICATIONS	Phone (888)265-2283