

**ORIGINAL**

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

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**Bright House Networks, LLC,**  
  
*Complainant*  
  
v.  
  
**Tampa Electric Company,**  
  
*Respondent.*

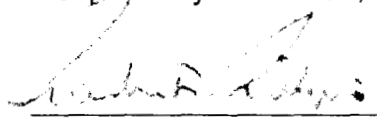
File No. EB-06-MD-003

To: Enforcement Bureau  
Market Disputes Resolution Division

**MOTION FOR LEAVE TO SUPPLEMENT POLE ATTACHMENT REPLY BRIEF  
AND REPLY DECLARATION OF EUGENE WHITE**

Bright House Networks, LLC, hereby moves for leave to file the accompanying **SUPPLEMENT TO POLE ATTACHMENT REPLY BRIEF AND REPLY DECLARATION OF EUGENE WHITE**. Good cause exists to grant Bright House Networks' motion, and Tampa Electric Company will suffer no prejudice as a result of granting it. The supplement merely updates factual assertions in the Reply Brief and Reply Declaration and, as such, will maintain the completeness and accuracy of the

- CMP \_\_\_\_\_ record.
- COM \_\_\_\_\_
- CTR \_\_\_\_\_
- ECR \_\_\_\_\_
- GCL \_\_\_\_\_
- OPC \_\_\_\_\_
- RCA \_\_\_\_\_
- SCR \_\_\_\_\_
- SGA \_\_\_\_\_
- SEC \_\_\_\_\_
- OTH Pena

Respectfully submitted,  
  
\_\_\_\_\_  
Gardner F. Gillespie  
J. D. Thomas  
Paul A. Werner III  
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Columbia Square  
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April 23, 2007

Attorneys for Complainant

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Bright House Networks, LLC ("BHN") hereby supplements its Reply (filed April 25, 2006), and the Reply Declaration of Eugene White, attached thereto, in order to maintain a complete and accurate record in this proceeding.

The Reply and Reply Declaration both discuss an entity, Bright House Networks Information Services ("BHNIS"), created to provide wholesale transport of BHN voice services and serve as a vehicle for interconnection with telecommunications carriers. See Reply at 14-15, Reply Declaration at 3-4. At the time the Reply and Reply Declaration were filed, BHNIS was a dormant entity, and the wholesale and interconnection functions were in actuality provided by an unaffiliated third-party carrier. The Reply and Reply Declaration so stated. See Reply at 15; Reply Declaration at ¶¶ 10-11.

More than a year has elapsed since the initial Complaint in this case was filed, however, and recently BHNIS has become active. Over the course of the next 12 months, the wholesale and interconnection functions currently provided to BHN by an

unaffiliated third-party carrier will be migrated to BHNIS. See Supplemental Declaration of Eugene White (attached). Therefore, the following statements in the Reply and Reply Declaration, while true and accurate when made, no longer hold going forward:

**Page 15 of the Reply:**

- “BHNIS for all practical purposes is dormant now.”
- “Finally, the wholesale and interconnection piece for which BHNIS was created is now supplied by an unaffiliated third-party carrier.”

**Paragraph 10 of the Reply Declaration:**

- “It now sits empty and unused, however.”

**Paragraph 11 of the Reply Declaration:**


- “And the wholesale and interconnection piece for which BHN was created is supplied by an unaffiliated third-party carrier.”

BHN emphasizes that this change does not alter the analysis in the case. It continues to be true, as noted in the Reply, that “[a]ll retail voice services that BHN is offering and providing in Tampa are offered directly by BHN – the cable operator.” Reply at 15. Therefore, “regardless of how the communications traffic is *transported*, the pole attachments are used for an unclassified IP *service*, and the transport function has no regulatory bearing on the IP *service*[.]” *Id.* at 16. 1/

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1/ In fact, the services that will be provided by BHNIS to BHN – back office assistance and transport to and interconnection with the public switched network – are identical to the services we understand Sprint and MCI to have been providing to Time Warner Cable in *In re Time Warner Cable Request for Declaratory Ruling*, DA 07-709 (Wireline Comp. Bur. Mar. 1, 2007). The Wireline Competition Bureau there noted that “the statutory classification of a third-party provider’s VoIP service as an information service or a telecommunications service is irrelevant to the issue of whether a wholesale provider of telecommunications may seek interconnection . . . .” *Id.* at ¶ 15. Its decision in no way suggested that the wholesale transport of VoIP for the purpose of interconnection to the PSTN would affect the status of the attachments used by TWC for its VoIP service or the pole attachment rate.

Respectfully submitted,



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**REPLY DECLARATION OF EUGENE WHITE**

I, Eugene White, hereby declare under the penalty of perjury of the laws of the United States:

1. I am over the age of 18, competent to give this Declaration, and have personal knowledge of the facts set forth herein.

2. I am Vice President for Engineering for Bright House Networks, LLC ("BHN"), in the Tampa, Florida, area. Part of my management and executive responsibilities include addressing pole attachment issues for BHN with utility companies in and around Tampa and surrounding areas of Hillsborough, Hernando, Pasco and Polk counties. I have had significant dealings with Tampa Electric ("TECO") over the years.

3. I have worked in the cable television industry for 35 years. I have worked in and around the greater Tampa area in cable television engineering (and construction) for 20 years.

4. In a declaration to this Commission dated April 25, 2006, I stated that Bright House Networks Information Services ("BHNIS"), an entity created to provide wholesale transport of BHN voice services and a vehicle for interconnection with telecommunications carriers, "sits empty and unused," and that "the wholesale and interconnection piece for which BHNIS was created is supplied by an unaffiliated third-party carrier."

5. Those statements were accurate at the time and remained so until recently. However, BHNIS' period of dormancy is ending. Over the next 12 months, wholesale transport and interconnection services that until now have been provided to BHN by an unaffiliated third-party carrier will be migrated in stages to BHNIS.

6. Throughout this process, the services provided by the wholesaler – henceforth BHNIS – will at no time extend all the way to BHN's VoIP customers. As I stated in my April 2006 Reply Declaration, "[a]ll retail voice services that BHN is offering and providing in Tampa are being offered directly by BHN—the cable operator," and "[a]ll the network facilities being used to provide such services are owned by BHN—the cable operator." In other words, the wholesale transport and interconnection services being migrated to BHNIS do not generate signals or services that are carried by BHN's system to its VoIP (or cable) customers.

I declare, under the penalty of perjury, that the foregoing Declaration is true and correct.

Eugene White

dated: April 19, 2007

Eugene White



**CERTIFICATE OF SERVICE**

I, Gloria Smith, hereby certify that on this 23rd day of April, 2007, I have had hand-delivered, and/or placed in the United States mail, and/or sent via electronic mail, a copy or copies of the foregoing **MOTION FOR LEAVE TO SUPPLEMENT POLE ATTACHMENT REPLY BRIEF AND REPLY DECLARATION OF EUGENE WHITE** and **SUPPLEMENT TO POLE ATTACHMENT REPLY BRIEF AND REPLY DECLARATION OF EUGENE WHITE**, with sufficient postage (*where necessary*) affixed thereto, upon the following:

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A handwritten signature in black ink, appearing to read "Y. Smith", is written over a solid horizontal line.