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May 30, 2008

Hand Delivery

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: DOCKET NO. 070691-TP - Complaint and request for emergency relief against Verizon Florida LLC for anticompetitive behavior in violation of Sections 364.01(4), 364.3381, and 364.10, F.S., and for failure to facilitate transfer of customers' numbers to Bright House Networks Information Services (Florida) LLC, and its affiliate, Bright House Networks, LLC

DOCKET NO. 080036-TP - Complaint and request for emergency relief against Verizon Florida, L.L.C. for anticompetitive behavior in violation of Sections 364.01(4), 364.3381, and 364.10, F.S., and for failure to facilitate transfer of customers' numbers to Comcast Phone of Florida, L.L.C. d/b/a Comcast Digital Phone.

Dear Ms. Cole:

Enclosed for filing in the above-referenced consolidated Dockets, please find an original and 15 copies of the Redacted Direct Testimony of Timothy M. Frenberg filed on behalf of Bright House Networks, LLC.

Thank you for your assistance with this filing. If you have any questions whatsoever,

DOCUMENT NUMBER-DATE

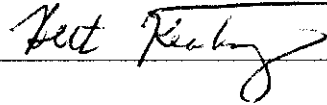
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Ms. Ann Cole
May 30, 2008
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please do not hesitate to contact me.

Sincerely,



Beth Keating
AKERMAN SENTERFITT
106 East College Avenue, Suite 1200
Tallahassee, FL 32302-1877
Phone: (850) 224-9634
Fax: (850) 222-0103

Enclosures

REDACTED

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PREFILED DIRECT TESTIMONY OF TIMOTHY M. FRENDBERG

Q. PLEASE STATE YOUR NAME AND PROFESSIONAL AFFILIATION.

A. My name is Timothy M. Frendberg. I am Senior Director of Voice Services for the Tampa Bay Division at Bright House Networks, LLC ("BHN"). I have held this position for 4 years. Before working at BHN, I was Director Network Technology at ECHO Broadband. All told I have worked in the communications industry (including voice, video and/or data services) for 19 years. Among other things, my responsibilities include selling BHN's voice services to end user customers.

Q. PLEASE BRIEFLY DESCRIBE BHN'S BUSINESS.

A. BHN provides cable, high-speed data, and voice services throughout the Tampa and Central Florida areas. BHN is not a certificated carrier. Instead, we obtain telecommunications services, including connections to the public switched telephone network ("PSTN"), as well as a number of ancillary and support functions, from Bright House Networks Information Services (Florida), LLC ("Bright House"), which is a telecommunications carrier certificated by the Florida PSC.

In providing our voice service, BHN competes with large incumbent local exchange carriers ("ILECs") such as Verizon, BellSouth and Embarq in the ILECs' respective home territories. BHN began providing voice services in the Tampa, Florida area, in direct competition with Verizon in 2004. The competition between BHN and the ILECs, including Verizon, is intense, and over the last several years BHN has made real inroads into the residential

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1 marketplace that is the focus of our competitive efforts. The fact remains,
2 however, that in each ILECs' territory, the ILEC remains the dominant
3 provider, with a very substantial majority of subscribers taking service from
4 the ILEC rather than from BHN. For this reason, in the vast majority of
5 cases, when BHN obtains a customer, that customer is, at the time we win
6 their business, already a subscriber to the services of the ILEC.

7 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

8 A. My testimony describes Verizon's retention marketing program and how that
9 program is affecting BHN's ability to compete.

10 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

11 A. As I noted above, most of our customers come to us directly from the ILECs
12 in whose territories we operate, including Verizon. Most customers want to
13 keep their telephone number when they switch providers. Number portability
14 makes that possible. Under current industry standards, we are required to
15 give Verizon at least three days notice before we switch a customer's number
16 from Verizon to Bright House. Verizon has been using this advance notice of
17 pending customer switches to target those customers for special marketing
18 efforts, urging those customers to stay with Verizon even though they have
19 already committed to switch to Bright House.

20 This program has been effective; since it began in the late summer of 2007,
21 by our estimate more than ***** **PROPRIETARY INFORMATION**
22 **REDACTED** ***** customers have changed their mind after signing up
23 with BHN and instead stayed with Verizon. This obviously harms BHN in
24 the marketplace. Aside from adding to our administrative costs, it makes our

1 own marketing and sales efforts, on balance, less effective, making it more
2 expensive for us, on average, to obtain new customers.

3 BHN believes that Verizon's program is anticompetitive and unfair. Verizon
4 itself does not undertake the time and effort to identify the customers who are
5 willing to leave Verizon for BHN –we do. We would never tell Verizon, our
6 main competitor, which customers are planning to switch to BHN unless we
7 were forced to do so – which we are in order to make number portability
8 work. Verizon is exploiting this confidential business information – which
9 we are forced to share with Verizon on a wholesale, carrier-to-carrier basis –
10 for its own retail benefit. As just noted, we believe this is anticompetitive
11 and unfair.

12 **Q. PLEASE BRIEFLY DESCRIBE WHAT HAPPENS WHEN BHN**
13 **SIGNS UP A NEW VOICE SERVICE CUSTOMER.**

14 A. When a new customer calls one of our customer service representatives
15 (“CSRs”), the CSR gets the relevant information from the customer necessary
16 to provide service, such as the customer's name, service address, and current
17 telephone number. Once a customer signs up for our service, we pass the
18 customer's information on to Neustar, which is under contract to BHN and
19 Bright House (IS?) to handle the administrative process of submitting local
20 service requests (“LSRs”) to the ILECs and other carriers with whom we
21 compete. Neustar then undertakes the industry-standard processes of alerting
22 the ILEC that the customer will be changing over to our service. We also
23 pass the customer's decision to change to our third party verification service,
24 and of course we do not go forward with completing any orders where the
25 customer does not confirm his or her choice to take service from us.

1 Q. WHEN DID YOU BECOME AWARE OF VERIZON'S NEW
2 RETENTION MARKETING PROGRAM?

3 A. In or around September 2007, it came to my attention that Verizon was
4 sending letters to our customers within days of Verizon receiving an LSR to
5 port a customer's number to Bright House so the customer could receive
6 service from us. In response, I began a process of having my organization try
7 to contact, by telephone, those customers who had had their orders canceled,
8 as well as some customers whose orders were not canceled. Several of these
9 customers provided us with copies of what Verizon sent to them. I have
10 attached as Exhibit TF-1 copies of a few of the (slightly different) letters
11 Verizon was sending.

12 As a result of those customer contacts, I learned that Verizon was contacting
13 them shortly after Neustar had submitted the LSR directing Verizon to port
14 the customer's number to us and to terminate Verizon's service to the
15 customer. Indeed, it appeared that in some cases Verizon was contacting the
16 customers within as little as 24 hours after the LSR was submitted. Among
17 other things, customers reported receiving overnight letters from Verizon
18 asking the customer not to leave Verizon, and offering gift cards worth \$100
19 or even \$200 as an inducement to stay with Verizon. (See Exhibit TF-1.) As
20 far as I am aware, none of the customers we contacted said that they had
21 initiated contact with Verizon. Instead, in all cases where such contact had
22 occurred, Verizon, not the customer, had initiated it. As noted above, and
23 based on our contacts with customers who canceled their orders, we estimate
24 that a large number of customers have been lost due to Verizon's retention
25 marketing efforts.

1 **Q. DOES BHN OR BRIGHT HOUSE ENGAGE IN SIMILAR**
2 **RETENTION MARKETING EFFORTS?**

3 A. No. To the contrary, I had understood that “retention marketing” of this sort
4 – that is, contacting a customer whose change-of-carrier was pending to try to
5 convince the customer not to change – was not permitted, and we do not
6 engage in it. The situation is different where the customer on his or her own
7 directly contacts the old service provider. The customer is always free to
8 contact whichever provider he or she wants and, when such contacts occur,
9 the provider is free to market to the customer, either to keep them (if the
10 customer contacts their current provider) or to win them (if the customer
11 contacts another provider).

12 **Q. IS VERIZON’S RETENTION MARKETING PROGRAM FAIR?**

13 A. No. To the contrary, Verizon’s actions are both unfair and frustrating
14 because we have no choice but to tell Verizon that a customer is planning to
15 leave Verizon for BHN. From a business perspective, if I did not have to let
16 Verizon know that I has persuaded one of their customers to switch to my
17 service, I would not do so, any more than any competitor in any other
18 industry would reveal his precise competitive successes to his competitors.
19 In a normal competitive market, this kind of information is highly
20 confidential and would not be shared with competitors at all.

21 I would also point out that from a competitive perspective this type of
22 retention marketing is unfair. As a practical business matter it is always
23 harder to persuade a customer to change from the status quo, so it is a real
24 “victory” when a customer decides to change from Verizon to us. When
25 Verizon engages in retention marketing, though, Verizon doesn’t face the

1 challenge of convincing a customer that is actually using our service and
2 knows from his or her own experience that it is reliable and offers high
3 quality. Instead, Verizon is simply convincing the customer to stay with the
4 status quo. While we can try to re-market to the same customer, we would
5 still – again – be trying to persuade the customer to change his or her
6 behavior. I am confident that Verizon realizes this, which is why they are
7 trying so hard to keep customers from leaving. Once a customer leaves
8 Verizon for BHN, Verizon would then, with respect to that customer, be in
9 the position we were in originally – trying to get the customer to change from
10 the (new) status quo. What Verizon is doing is trying to keep us stuck in the
11 difficult position of trying to convince customers to change, while leaving
12 themselves, as much as possible, with the much easier job of encouraging
13 customers to keep on doing what they are already doing. Since (as I noted
14 above) the vast majority of customers in Verizon’s territory are, today,
15 Verizon customers, they obviously benefit from the status quo and want to
16 preserve it as long as possible.

17 **Q. DOES VERIZON’S RETENTION MARKETING PROGRAM**
18 **CREATE ADMINISTRATIVE PROBLEMS FOR BRIGHT HOUSE**
19 **AND BHN?**

20 **A.** Yes. Verizon’s retention marketing adds cost and confusion even when the
21 customer stays with BHN. When a customer calls us to cancel their order (in
22 response to a Verizon letter or otherwise), we normally take the opportunity
23 to re-win the customer. If we are successful, but Verizon thinks that *it* has
24 won the customer, we now have an additional burden of convincing Verizon
25 that the customer has changed his or her mind yet again. As far as we can

1 tell, the only way to do that is to compare the time stamps on BHN's and
2 Verizon's third-party verification and/or letter of authorization. This is an
3 expensive administrative burden that arises directly from Verizon's activities.

4 **Q. YOU STATED EARLIER THAT BHN AND BRIGHT HOUSE DO**
5 **NOT ENGAGE IN RETENTION MARKETING. PLEASE**
6 **ELABORATE.**

7 A. My responsibilities include development of the policies that BHN's retail
8 sales agents follow with respect to our voice services, and I am personally
9 familiar with our marketing practices. Based on that knowledge, I can state
10 without qualification that BHN does not engage in the type of activity that
11 Verizon uses in its retention marketing program, which I understand to be
12 unlawful. To the contrary, when we receive an LSR from Verizon (or any
13 other carrier), we respond to the request, and then we wait until the port out is
14 completed before marketing to the disconnecting customer. Only when the
15 port out is completed do we enter a disconnect in our billing system. When
16 the disconnect has occurred, our marketing effort to that customer begins.
17 We place such customers on a list to receive win-back marketing, based on
18 whatever marketing approaches and offers are current at the time. As noted
19 above, the only time we engage in efforts to retain a customer with a pending
20 port-out is when the customer, on his or her own, calls BHN to cancel their
21 BHN service. My understanding is that when a customer directly contacts
22 our retail operations prior to a port-out, we are permitted to market to that
23 customer in an effort to prevent the customer from leaving us. In no case do
24 we rely on information we receive from carrier change requests to trigger

1 efforts to persuade the affected customers to maintain their voice service with
2 BHN.

3 **Q. DOES VERIZON'S RETENTION MARKETING PROGRAM HARM**
4 **BHN AND BRIGHT HOUSE?**

5 A. Yes. As stated above, a large number of customers who had decided to
6 switch to BHN's voice service have decided to stay with Verizon as a result
7 of Verizon's retention marketing program. BHN loses the revenue from
8 those customers going forward. In addition, Verizon's program increases our
9 costs of acquiring new customers and complicates the administrative
10 processes of implementing number portability.

11 **Q. IS THERE ANY WAY FOR BHN TO AVOID THIS HARM?**

12 A. Not that I can see. Most customers prefer to keep their existing telephone
13 number when they switch providers, for obvious reasons, but it is the
14 industry-standard administrative processes for allowing a customer to keep
15 their number, including the time intervals that those standards impose on the
16 process, that Verizon exploits in order to make its retention marketing
17 program work. As long as those processes give Verizon enough time to
18 market to its customers before the carrier switch takes place, there is little we
19 can do to protect ourselves against this tactic. In the long run, if Verizon's
20 retention marketing program is allowed to continue, it would seem like
21 BHN's logical response would be to try to convince customers to take a new
22 telephone number when they begin their BHN service. This would make it
23 possible for us to obtain the customer without being forced to give Verizon
24 advance notice that they are losing the customer. However, that would tend,
25 over time, to deprive customers of the benefits of number portability.

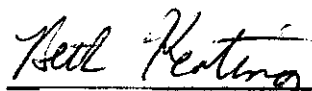
1 Q. **DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

2 A. Yes, it does.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Redacted Direct Testimony of Timothy M. Frendberg filed by Bright House Networks Information Services (Florida) LLC and Bright House Networks, LLC (collectively, "Bright House") has been served via Electronic Mail, U.S. Mail First Class, or Hand Delivery this 30th day of May, 2008, to the persons listed below:

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