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February 12, 2010

VIA HAND DELIVERY

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
236 Massachusetts Avenue, N.E.
Suite 110
Washington, DC 20002

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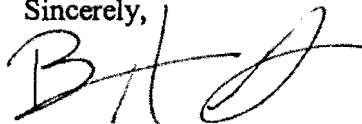
Re: Bright House Networks LLC v. Tampa Electric Company, File No. EB-06-MD-003

Dear Madame Secretary:

Please find enclosed an original and four copies of Tampa Electric Company's Motion for Leave to File Supplement the Record and Renewal of Request for Evidentiary Hearing. Also enclosed is a return copy that we ask that you file-stamp and return to the courier.

Tampa Electric respectfully requests that the Commission file this Motion in the above-captioned proceeding pursuant to the Commission's standard procedures.

Sincerely,



Benjamin A. Gastel

DOCUMENT NUMBER - DATE
01050 FEB 17 09
FPSC-COMMISSION CLERK

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
BRIGHT HOUSE NETWORKS, LLC,)	
)	
<i>Complainant,</i>)	
)	File No. EB-06-MD-003
v.)	
)	
TAMPA ELECTRIC COMPANY,)	
)	
<i>Respondent.</i>)	

To: Enforcement Bureau
Market Disputes Resolution Division

**TAMPA ELECTRIC COMPANY'S MOTION FOR LEAVE TO SUPPLEMENT
THE RECORD AND RENEWAL OF REQUEST FOR EVIDENTIARY HEARING**

Pursuant to 47 C.F.R. §1.1407(a) Tampa Electric Company ("TECO"), through its undersigned attorneys, hereby requests authority from the Federal Communications Commission ("Commission") to file a Supplement setting forth newly discovered evidence in response to the above-referenced Complaint filed by Bright House Networks, LLC ("BHN").

As the Commission is aware, the parties to this proceeding are also parties to a civil action before the Circuit Court of the 13th Judicial District in Hillsborough County, State of Florida.¹ Discovery in that action was stayed for an extended period at BHN's request. The stay was lifted on May 22, 2008, but discovery again stalled while BHN attempted an appeal. Discovery finally began in August, 2008 and was concluded on February 5, 2010.

During the course of discovery, TECO uncovered a significant volume of evidence conclusively demonstrating that BHN's attachments to TECO's poles were used to provide

¹ See *Tampa Electric Company v. Bright House Networks, LLC*, Civil Action File No 06-00819, Circuit Court of the Thirteenth Judicial Circuit In and For Hillsborough County Florida.

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telecommunications service throughout the period from 2001 through the present. Specifically, TECO has discovered that BHN, its affiliate Bright House Networks Information Service (“BHNIS”), and other unaffiliated telecommunications companies (including, but not limited to, XO Communications, T-Mobile, and Time Warner Telecom) have used and are currently using BHN’s attachments to provide telecommunications services. This evidence includes hundreds of contracts for the provision of telecommunications service, product manuals detailing the specific telecommunications services offered, internal BHN correspondence and other business records documenting BHN’s own activities as a telecommunications carrier, and the testimony of numerous BHN and BHNIS personnel.

This evidence confirms the use of BHN’s attachments by unaffiliated carriers to provide telecommunications services to their customers. This evidence also confirms BHN’s transport of Digital Voice phone service for BHNIS and shows BHN’s past representations regarding Digital Voice in this proceeding to have been misleading and in some cases false. And this evidence confirms BHN’s substantial and pervasive wholesale and retail transport business, including services such as Metro Ethernet private line service, unbundled internet access, virtual private network service, and carrier last-mile transport, which BHN and its predecessors have provided using TECO’s poles.

TECO is still reviewing these materials, which include more than 160,000 pages of documents and 14 depositions. Based on these records and other information that has come to light, TECO anticipates that the trial, scheduled to begin on March 8, 2010, will reveal still more evidence of BHN’s attachments being used to provide telecommunications service.

This body of evidence, all of which has surfaced since the closing of the pleading cycle in the above-captioned Complaint proceeding, is directly relevant to the issues raised by the

pleadings and could not have been submitted by TECO in its Response because BHN had not disclosed it. Indeed, much of this evidence shows that BHN's prior submissions in this proceeding, including its Interrogatory Responses ordered by the Commission, were inaccurate or incomplete. TECO is now requesting that the Commission permit TECO to supplement the record with representative samples of the aforementioned additional evidence. The evidence TECO intends to submit includes evidence provided to the Court with TECO's motion for summary judgment, a copy of which is attached hereto², and other selected evidence that TECO is currently assembling and will file promptly after the upcoming trial.

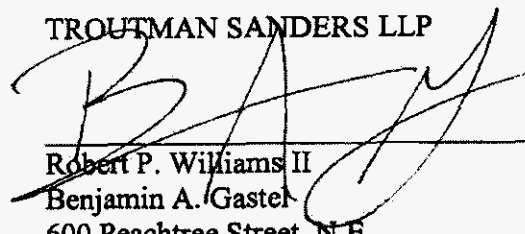
TECO recognizes that pole attachment complaint proceedings are usually intended to be streamlined and simple, but BHN's use of this particular complaint proceeding as a tactical device to impede the Hillsborough County breach of contract action, coupled with BHN's now documented tactics of concealment and misrepresentation, makes this a most unusual case. TECO notes that BHN has already made supplemental submissions of its own in this proceeding from materials obtained during the civil litigation discovery process.

As the Commission will recall, TECO has requested an evidentiary hearing be held in this proceeding. The sheer volume and scope of evidence confirming the provision of telecommunications services over BHN's attachments is better suited to an evidentiary proceeding than to the normal 3-pleading cycle. BHN's sustained, and long-successful, efforts to prevent that evidence from coming to light made it impossible for TECO to put this evidence before the Commission in TECO's Response. TECO respectfully submits that BHN's conduct merits a thorough review by the Commission, and that an evidentiary hearing is the appropriate context for that review.

² The Motion for Summary Judgment and Memorandum of Law in Support thereof is contained within the CD attached hereto.

Respectfully submitted,

TROUTMAN SANDERS LLP

A large, stylized handwritten signature in black ink, appearing to read 'BAG', is written over a horizontal line. The signature is positioned to the right of the typed names.

Robert P. Williams II
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Atlanta, Georgia 30308
(404) 885-3000 (telephone)
(404) 885-3900 (fax)

Counsel to Tampa Electric Company

Dated: February 12, 2010

CERTIFICATE OF SERVICE

I, Robert P. Williams, hereby certify that a copy of the foregoing TAMPA ELECTRIC COMPANY'S MOTION FOR LEAVE TO SUPPLEMENT THE RECORD AND RENEWAL OF REQUEST FOR EVIDENTIARY HEARING has been served upon the persons listed below by first-class mail, postage prepaid or by hand delivery(*) this 1st day of February 2010 to:

Alexander P. Starr, Esq.*
Chief
Market Disputes Resolutions Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W., Room 5C828
Washington, D.C. 20554

Rosemary McEnery, Esq.*
Suzanne M. Tetreault*
Market Disputes Resolutions Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W., Room 5C828
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Paul A. Werner III
Hogan & Hartson LLP
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Washington, DC 20004

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Office of the General Counsel
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

By: _____


Benjamin A. Gastel

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)
)
BRIGHT HOUSE NETWORKS, LLC,)
)
 Complainant,)
)
 v.)
)
TAMPA ELECTRIC COMPANY,)
)
 Respondent.)

File No. EB-06-MD-003

To: Enforcement Bureau
Market Disputes Resolution Division

VERIFICATION OF BENJAMIN A. GASTEL

I, Benjamin A. Gastel, hereby declare under the penalty of perjury of the laws of the United States:

1. As counsel to Tampa Electric Company, Respondent in the above-captioned proceeding, I am familiar with the factual matters included in the Motion to Leave to Supplement the Record and Renewal of Request for Evidentiary Hearing and the accompanying compact disk (the "Motion").

2. I was responsible for and oversaw the preparation of the Motion. I verify that the Motion and the attachment thereto are true and accurate to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing verification is true and correct



dated: February 12, 2010