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November 24, 2004

VIA ECFS

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**RE: BellSouth Telecommunications, Inc. Request for Declaratory Ruling That State Commissions May Not Regulate Broadband Internet Access Services by Requiring BellSouth to Provide Wholesale or Retail Broadband Services to CLEC UNE Voice Customers, WC Docket No. 03-251**

Dear Ms. Dortch:

The purpose of this letter is to disclose for the record two permitted *ex parte* contacts in the above-noted matter. On November 23, 2004, undersigned counsel for Bright House Networks Information Services, LLC (Florida) ("BHN") met (separately) with Mr. Scott Bergmann of Commissioner Adelstein's office and Mr. Matt Brill of Commissioner Abernathy's office, with regard to the above-noted matter. The substance of BHN's presentation, summarized below, was the same in both meetings.

BHN provides facilities-based voice communications services in Florida, without the use of unbundled network elements ("UNEs") from the incumbent local exchange carrier ("ILEC"). Unfortunately, BHN is experiencing difficulties with Verizon in the Tampa area, in that Verizon will not promptly port the voice telephone number of a Verizon customer that has digital subscriber line ("DSL") service on the voice loop. As a result, many consumers who wish to obtain voice services from BHN cannot readily do so.

This problem is broadly similar to the underlying carrier-to-carrier disputes at issue in the BellSouth matter. That said, BHN recognizes that the primary legal focus of BellSouth's request has to do with the scope of Commission versus state-level jurisdiction over ILEC UNE obligations, rather than the merits of the underlying disputes. The purpose of the meetings with Messrs. Bergmann and Brill was to ensure that the Commission was aware that there are voice service competitors in the market who are being harmed by the actual ILEC business practices underlying the BellSouth matter, even though those competitors do not in any way rely on ILEC

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UNEs. Given this, BHN requested that in its ultimate resolution of the BellSouth matter, the Commission avoid issuing a ruling that goes beyond the jurisdictional issues, or that could be read as approving or endorsing the underlying ILEC practice (refusing to promptly port the telephone numbers of DSL customers). Alternatively, if the Commission does address the merits of the underlying practice, then ILECs should be directed to port numbers without delay and to offer "naked DSL" *i.e.*, DSL on a line without voice service also on it.

Please feel free to contact undersigned counsel if you have any questions about this matter.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized initial 'C' followed by a long, horizontal, slightly wavy line extending to the right.

Christopher W. Savage  
**COLE, RAYWID & BRAVERMAN, L.L.P.**

Counsel for:  
**BRIGHT HOUSE NETWORKS INFORMATION  
SERVICES, LLC (FLORIDA)**