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February 16, 2010

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

Re: Notice of *Ex Parte* Presentation
GN Docket Nos. 09-47, 09-51, 09-137 National Broadband Plan

Dear Ms. Dortch:

On January 7, 2010, representatives of Bright House Networks (BHN), met with members of the Broadband Task Force in a meeting convened by Tom Koutsky[1]. At that meeting, we urged the Task Force to recommend that the FCC complete its 2008 Pole Attachment proceeding by applying the cable rate to attachments used by providers, such as BHN, to deliver commingled services. We pointed out that lower pole rates allowed BHN to provide innovative competitive services to schools and other anchor institutions. During the meeting, Mr. Koutsky asked for any further details on BHN's broadband services to anchor institutions like school districts.

As a follow-up to that meeting, I am filing the following affidavit from Mr. Nick Lenoci, Vice President, Corporate Business Solutions, Bright House Networks. Mr. Lenoci's responsibilities include supervising BHN responses to requests for proposals from school districts seeking bids for competitive communications services.

Mr. Lenoci's affidavit discusses BHN's facilities-based competitive entry against established incumbent phone companies into the local government and school services market. He notes that while BHN can consider a number of vendors for many aspects of a bid, there is only one provider of pole space available to attach to fibers for a broadband bid in BHN's school district territories: the electric utility.

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[1] See Letter to Marline H. Dortch, Notice of Ex Parte Presentation, GN Docket Nos. 09-47, 09-51, 09-137, National Broadband Plan, Jan. 8, 2010 and attached slides.

He further notes that higher pole rates, "with no additional benefit to BHN or to the school district", make BHN's competitive entry uneconomic, particularly given the generally more favorable negotiated rates under joint use agreements available to incumbent phone providers. It is for this reason that the Commission's rules for commingled service pole attachments have a critical impact for BHN on the deployment of competitive and innovative broadband services to anchor institutions like schools.

Mr. Lenoci's affidavit is attached.

Pursuant to section 1.1206(b) of the Commission's rules, an electronic copy of this letter is being filed electronically with the Office of the Secretary and served on the Commission participants in the meeting.

Should you have any questions regarding this matter, please contact the undersigned.

Sincerely,

Daniel L. Brenner

cc: Marva Johnson, Vice President, Bright House Networks
Cody Harrison, Regulatory Counsel, Bright House Networks
William Dever
Thomas Koutsky
Albert Lewis
Marcus Maher
Jeremy Miller
Jonathan Reel
Marvin Sacks

Enclosures

AFFIDAVIT
NICK LENOCI

1. My name is Nick Lenoci. I am Vice President, Corporate Business Solutions, Bright House Networks (BHN). My job is to supervise all aspects of submissions in response to requests for proposals for BHN for, among other things, school districts seeking communications services.

2. Preparing these bids involves a careful evaluation of all cost elements, consideration of a variety of vendors to furnish different elements, and establishment of a bid offer based on an internal rate of return, consistent with the business risk of large projects such as these.

3. BHN can consider a number of vendors for different aspects of the bid. But there is only one provider of pole space necessary to attach fibers: the electric utility.

4. Unlike incumbent phone companies, who usually enjoy joint use agreements with the utility, new providers like BHN must rent pole space and depend on government-established rates to obtain reasonable access to these must-have facilities. This gating factor makes any proposal to compete with incumbent phone companies entirely dependent on the pole rental rates.

5. Three years ago BHN won the competitive bid to provide a comprehensive communications service solution for a large school system. The award from BHN's bid provided from 10 mbps to 1 Gig of Ethernet service to all of the schools and administration buildings in the School District.

6. In this instance BHN attached to approximately 20,000 poles owned by electric utilities to provide service to the school district.

7. Until BHN bid this project, service was provided by the incumbent phone company (the "ILEC"). The ILEC offered only T-1 copper facilities to the schools.

8. BHN was able to offer faster data transmission speeds and higher capacity through its all-fiber build than the ILEC. BHN also reduced the cost of the service even while it greatly expanded the variety and quality of the services offered.

9. By BHN entering the local government and school services market, BHN was able to provide facilities-based, bundled-services competition to the incumbent carrier, whose network was inferior to BHN's offering. It also required the ILEC to reduce its offering price, and force out excess costs, in order to have a competitive bid. This entry is of direct benefit to "anchor institutions" like the particular school district.

10. BHN's award is up for rebidding in 2010. Due to technical improvements on our network and improved efficiencies by BHN, this new bid involved a reduction in cost for

the service. And we have proposed to increase significantly increase our services to provide 10, 20, 50, and 100 mbps levels of service.

11. BHN's current pole attachment rates for "cable" attachments are in the range of approximately $7.00 per pole per year. The maximum pole attachment rates for "telecommunications" attachments are typically about 2 ½ times higher than the "cable" rates. At this time, BHN pays the "cable rate" for services such as the ones provided to the school system because the services have not been classified by the FCC as "telecommunications services."

12. If the higher pole rate were imposed, it would mean an additional expense to provide the service of about $220,000 annually.

13. The effect of this additional cost element, with no additional benefit to BHN or to the school district, would make it uneconomic for BHN to bid this project, given competitive bids from the ILEC experienced by BHN in other instances. If BHN withdraws from such bids, anchor institutions will receive no facilities-based fiber competition because the cable operator is typically the only such facilities-based provider. The competitive environment fostered thus far will diminish or disappear.

14. Because the ILEC attaches to poles under joint use agreements with utilities, its costs, unlike unrelated attachers like BHN, are always negotiated rates. As pole owners themselves, the ILEC can obtain favorable rates when electric-owned poles are needed. This is because if electric companies gouge the ILEC, the ILEC can respond when electric companies need to attach to ILEC-owned poles.

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

Executed on February 9, 2010

Nick Lenoci