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September 15, 2011

EX PARTE

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

Re: Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92; High-Cost Universal Service Support, WC Docket No. 05-337; Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135; Connect America Fund, WC Docket No. 10-90; A National Broadband Plan for Our Future, GN Docket No. 09-51; Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Lifeline and Link-Up, WC Docket No. 03-109

Dear Ms. Dortch:

On September 13, 2011, Mr. Steve Miron, CEO, Bright House Networks (Bright House), Mr. Cody Harrison, counsel to Bright House Networks, and the undersigned met with Mr. FCC Commissioner Robert M. McDowell and Christine D. Kurth, Policy Director and Wireline Counsel to Commissioner McDowell. The purpose of the meeting was discuss Bright House's views on certain aspects of the above captioned matters.

Mr. Miron endorsed the positions laid out by the National Cable & Telecommunications Association in response to the FCC's request for comments on universal service reform with respect to capping the size of the fund; and redirecting the fund to support broadband and only in those areas which are unserved.

As to questions relating to the reform of intercarrier compensation, Mr. Miron expressed Bright House's strong view, reflected in his company's several submissions¹, that the

¹ See Comments Of Bright House Networks Information Services, LLC in WC Docket No. 10-90 et al. (filed April 1, 2011); Reply Comments Of Bright House Networks Information Services, LLC in WC Docket No. WC 10-90 et al. (filed April 19, 2011); Comments Of Bright House Networks Information Services, LLC in WC Docket No. 10-90 et al. (filed Aug. 24, 2011); Reply Comments

FCC should treat all intrastate exchange access service the same, and not create artificial rate distinctions among otherwise indistinguishable minutes of traffic based on the technology involved in originating or terminating the call. In particular, the FCC should not adopt the proposal in the ILEC ABC Plan² that would establish a separate, much lower intercarrier compensation rule for intrastate toll traffic that originates or terminates with an interconnected Voice over Internet Protocol (“VoIP”) service during the 18-month transition period proposed to commence on January 1, 2012.

Bright House provides connectivity for its VoIP customers to the public switched telephone network (“PSTN”) through its affiliated competitive local exchange carrier Bright House Networks Information Services, LLC. These digital voice services are part of a high bandwidth, multifunction network in which Bright House has invested hundreds of millions of dollars in its service areas. These investments, including a versatile, facilities-based VoIP network, have helped to fulfill the FCC’s goal for widely deployed broadband services. During this time of massive investment – leading to the realization of the 1996 Telecommunications Act’s goal of durable facilities-based competition -- the incumbent phone companies have been slow to convert customer connections on the PSTN to VoIP.

The incumbents now maintain that their failure to update networks to IP on a faster timetable should be rewarded with continued receipt of full intrastate access fees for their calls, while Bright House and other cable operators, who have upgraded networks to provide VoIP and who have also erected CLECs by which to exchange traffic with ILECs, should see intrastate access fees *reduced* during the transition to the level of interstate access. This amounts to a 90% reduction in intrastate access, compared to what the ILECs have proposed to give themselves during the transition. For Bright House, this amounts to being deprived of millions of dollars of revenue based on a self-serving distinction by the ABC proponents.

The ABC proponents have stated no *policy* basis for distinguishing between traffic that originates or terminates in VoIP but which is exchanged through TDM. Indeed, unanimous Commission policy would hardly support this unfair result: Bright House’s digital voice networks reflect new investment in innovative broadband service. Under the ABC proposal, it would be *punished* by reducing what may be collected by Bright House during the transition compared to the access fee that a legacy provider can collect.

Mr. Miron and Mr. Harrison pointed out that Bright House would prefer to exchange its VoIP traffic IP to IP, but ILECs, including those who have signed on to the ABC Plan, have refused to do so, in significant part because ILECs have not upgraded legacy

Of Bright House Networks Information Services, LLC in WC Docket No. 10-90 et al. (filed September 6, 2011). See also Summaries of Permitted Ex Parte Contact filed in WC Docket No. 10-90 et al., filed May 27, 2011, June 14, 2011 (attached to this letter).

² See Attachment 1, p. 10, ABC Plan, Joint filing, July 29, 2011.

networks to IP. As a consequence, Bright House and other cable operators have invested in facilities, including creating CLECs to maintain backward compatibility with legacy TDM-based providers to exchange traffic in a format acceptable to the ILECs and interexchange carriers, including affiliates of the ILECs. While there may be a difference in the technologies used by VoIP and circuit-switched carriers to originate or terminate calls, those differences have no effect on how they interconnect with the IXCs to whom access charges apply or on the facilities those IXCs use to deliver traffic, or pick up traffic from, ILECs and CLECs.

Differential access pricing during the 18-month transition would also encourage ILECs and their IXC affiliates to engage in efforts to characterize traffic as VoIP so as to claim a lower exchange rate. This plank of the ABC plan would invite arbitrage and disputes over the identification of traffic during a period of transition that is supposed to decrease, not inflame, the regulatory conflicts that arise in intercarrier compensation disputes.

Mr. Miron and Mr. Harrison also pointed out this possibility is far from theoretical. Bright House, along with other cable companies, find themselves in a legal dispute with Verizon, one of the ABC Plan signatories. Verizon's IXC affiliate has simply ceased paying intrastate access charges to Bright House in Florida, claiming that it is not required to do so because Bright House traffic originates or terminates as VoIP. It maintains this position despite Verizon's delivery of traffic to Bright House in TDM and Bright House's conversion of traffic to TDM when presented for exchange to Verizon.

Mr. Miron expressed his company's appreciation for the Commission's complex task to complete its work in USF and intercarrier compensation reform. He urged that, in doing this work, the agency not adopt this unwarranted carve-out for ILEC-only relief in the area of intrastate access charges during the 18-month transition period.

Bright House respectfully requests that the Commission consider these points in its decision in the above-referenced matter.

Please contact undersigned counsel if you have any questions about this letter.

Sincerely,

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cc: Comm'r Robert M. McDowell
Christine D. Kurth