

March 30, 2012

EX PARTE

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

RE: WC Docket No. 11-118, Petitions regarding Section 652

Dear Ms. Dortch:

On March 28, 2012, Nomi Bergman, President, Bright House Networks ("BHN"), Leo Cloutier, Sr. Vice President, Strategy, BHN, Cody Harrison, Counsel to BHN, and the undersigned met with Michael Steffen, Office of the Chairman, Sharon Gillett, Chief, Wireline Competition Bureau, and the following officials of the Wireline Competition Bureau: Lisa Gelb; Travis Litman, Bill Dever, Gregory Kwan, and Tim Stelzig on the above captioned docket.

Ms. Bergman presented the background of BHN's entry into voice services, its particular role as a privately held cable MSO, and the company's recognized success in providing high quality service, as recognize by J.D. Power & Associates, in its review of wireline phone providers. While BHN has built out its nonresidential footprint by as much as 70-90%, it has captured only 5 percent of the commercial market. Its commercial business initially focused on small businesses and increasingly is focused on enterprise and larger businesses, where it faces years of ILEC dominance.

Purchasing CLECs can be a solution to better penetrating this commercial market. As Mr. Cloutier explained, on several occasions, the specter of having to obtain a waiver under Sec. 652(d) from the FCC as well as from many local franchising authorities (LFAs) has added to the costs in considering these potential transactions. The uncertainty raised by these required waiver proceedings contributed to convincing BHN not to proceed with potential acquisitions in several situations. This is particularly troublesome because ILECs may consider acquiring these very same CLECs without having to satisfy any requirements of Section 652, including LFA review.

The result, it was argued, is to create a triple-plus layer of regulation on a cable-CLEC acquisition of any significant size: the FCC's Section 214 approval process, The Department of Justice's Hart-Scott-Rodino-showings, and the Section 652(d) waiver showing, multiplied by

however many LFAs may be involved in a particular service area. Given President Obama and the FCC's efforts to remove unnecessary layers of regulation, maintaining Section 652 waiver requirements for cable-CLEC transactions makes little sense. LFAs that have a legitimate, CLEC-merger related issue to raise, can avail themselves of the notice-and-comment provisions of Section 214 so that the FCC can consider any relevant objections.

As Mr. Harrison noted, Section 652 was aimed at preventing the loss of the two-wire ILEC/cable competition envisioned by the 1996 Telecommunications Act. Changes in the marketplace make forbearance from Section 652 for transactions between CLECs and cable operators, as sought by the petition filed by the NCTA in this docket, appropriate for grant.

The parties also discussed that many of the potential deals mentioned in the discussion were subject to Nondisclosure Agreements, which makes it difficult for BHN to describe particular deals in which Section 652 played the described inhibiting role. Mr. Cloutier pointed out that one way the FCC could see the effect of section 652 on cable's ability to participate in CLEC acquisitions was to notice the glaring absence of any CLEC-cable transactions in the last few years among successful CLEC transactions in the marketplace, despite the desirability and appropriateness of these deals for cable operators in their service areas.

In accordance with FCC rules, this letter is being filed in the above captioned docket. Please contact the undersigned regarding any questions.

Sincerely,

/s/ Daniel Brenner

Daniel Brenner

cc: Michael Steffen
Lisa Gelb
Travis Litman
Bill Dever
Gregory Kwan
Tim Stelzig