

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE:

**APPLICATION OF BRISTOL
TENNESSEE ESSENTIAL SERVICES
TO EXPAND ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY TO
PROVIDE COMPETING
TELECOMMUNICATIONS SERVICES
STATEWIDE**

Docket No. 12-00060

**THIRD SUPPLEMENTAL RESPONSES OF BRISTOL TENNESSEE ESSENTIAL
SERVICES TO
DISCOVERY REQUESTS OF
UNITED TELEPHONE SOUTHEAST LLC**

In response to the December 19 *Order Granting Motion to Enforce Compliance with Order Requiring Production of Auditor Workpapers* (the “*Enforcement Order*”), Bristol Tennessee Essential Services (“BTES”) respectfully submits the affidavit of William H. Novak, the independent auditor who performed the 2010 audit of BTES' cost allocation manual. As indicated in Mr. Novak's affidavit, BTES has already produced all of his workpapers from his 2010 compliance audit of BTES' cost allocation manual. BTES submitted these documents together with Mr. Novak's December 28, 2010 email in the *Second Supplemental Response of Bristol Tennessee Essential Services to Discovery Requests of United Telephone Southeast LLC* (“*Second Supplemental Response*”). As noted in the *Second Supplemental Response*, BTES redacted the names of its employees from workpapers listing employee specific compensation information. CenturyLink counsel later accommodated this request, and so BTES presumes that this limited redaction remains acceptable to CenturyLink and is not the subject of the present discovery issue.

The additional documents referenced in the *CenturyLink Motion to Enforce Compliance with Hearing Officer Order Regarding Production of Auditor Workpapers* ("*CenturyLink Motion to Enforce*"), are not Mr. Novak's workpapers but are instead references to company source information. As explained in Mr. Novak's affidavit, company source information documents are copies of BTES' own records that Mr. Novak gathered from BTES in the course of the audit. Consistent with his engagement with BTES and with his general practice, Mr. Novak disposed of those documents following completion of his engagement and no longer has copies of those documents.¹

In an effort to clear up any remaining misunderstandings surrounding this matter, BTES volunteers to make available to CenturyLink copies of all documents that BTES furnished to Mr. Novak in connection with the 2010 cost allocation manual audit. Alternatively, should CenturyLink deem that offer to be burdensome, BTES will make available compilations of company source information documents related to specific allocation calculations contained in Mr. Novak's workpapers as may be requested by CenturyLink. BTES will make these documents available to CenturyLink for inspection and copying subject to the ability of BTES to redact personally identifying information from its employee compensation records – a request that CenturyLink counsel has previously accommodated.

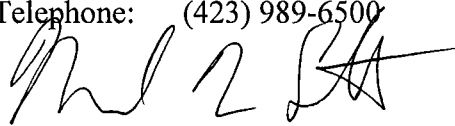
Because BTES did not have the opportunity to respond to CenturyLink's motion before the *Enforcement Order* was entered, BTES also submits an affidavit from one of its counsel to

¹ BTES learned of the status of the copies of the company source information documents following its receipt of the CenturyLink Motion to Enforce. In preparing to respond to that motion, BTES reviewed the engagement letter with Mr. Novak and determined that there was a possibility that additional documents no longer existed under the terms of that engagement letter. BTES contacted Mr. Novak and determined that these company source information documents had, in fact, been disposed of. Rather than requesting the opportunity to be heard on the CenturyLink Motion to Enforce or requesting reconsideration of the Enforcement Order on the basis that BTES does not exercise control over Mr. Novak as an independent auditor (an argument that BTES reserves), BTES instead chose to request that Mr. Novak voluntarily work with BTES to prepare the attached affidavit to verify that BTES has produced the entire set of auditor's workpapers from the 2010 cost allocation manual audit.

explain counsel's statement at the November 15 Status Conference and his understanding of the matters addressed in the *Order Granting CenturyLink's Motion to Compel* in an effort to further clear up any remaining misunderstandings.

Respectfully submitted,

C. THOMAS DAVENPORT, JR.
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msmith@millermartin.com

Attorneys for: Bristol Tennessee Essential Services

CERTIFICATE OF SERVICE

I hereby certify that a true and correct electronic copy has been forwarded via e-mail to the following on this the 28th day of December, 2012.

Charles B. Welch, Jr., Esq.
Farris Mathews Bobango, PLC
300 Historic Castner-Knott Building
618 Church Street
Nashville, Tennessee 37219

Zsuzsanna E. Benedek, Esq.
Senior Attorney
CenturyLink
240 North Third Street, Suite 300
Harrisburg, Pennsylvania 17101

Misty Smith Kelley, Esq.
Baker, Donelson, Bearman, Caldwell &
Berkowitz, PC
1800 Republic Centre
633 Chestnut Street
Chattanooga, Tennessee 37450

A handwritten signature in black ink, appearing to be "M. Smith", is written above a horizontal line.

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
AT NASHVILLE**

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Docket No.: 12-00060

AFFIDAVIT OF WILLIAM H. NOVAK, CPA

I am William H. Novak, Affiant herein. I am over 18 years of age, and the information contained in this Affidavit is from my own personal knowledge.

1. I am a Certified Public Accountant, and I am the President of WHN Consulting ("WHN"), a utility consulting and expert witness services company.

2. WHN was retained by Bristol Tennessee Essential Services ("BTES") to perform a compliance audit of the common cost business unit allocation procedures of BTES for its 2010 fiscal year, which ended June 30, 2010 (the "2010 CAM Audit").

3. WHN submitted its opinion and an accompanying report for the 2010 CAM Audit on December 28, 2010, and the 2010 CAM Audit report contained this summary conclusion on page 9: "The \$34,893 in recommended net adjusting entries is immaterial in comparison to the total expenses allocated. In our opinion, [BTES] is in material compliance with the allocation methodology described in the CAM for the twelve months ended June 30, 2010."

4. By email dated December 28, 2010, WHN forwarded a complete set of workpapers for the 2010 CAM Audit to Ms. Lola McVey at BTES. A copy of the text from that email is attached as **Exhibit A** to this Affidavit.

5. I have reviewed the list of documents that CenturyLink requested on pages 2 and 3 of the *CenturyLink Motion to Enforce Compliance with Hearing Officer Order Regarding Production of Auditor Workpapers* ("CenturyLink Motion") that was recently filed in this Docket. The references to those documents in WHN's workpapers are actually references to copies of original source information documents provided by BTES and utilized in the 2010 CAM Audit. The only edits by WHN to these original source documents were for workpaper numbering as a reference in other WHN workpapers. Because these original source documents were not created by WHN, they were not retained by WHN after the audit was concluded.

6. Among other documents, these original monthly source documents typically included the following: electric sales reports, customer subscriber reports, service order reports, payroll hours reports, power distributor reports, division income statements, division balance sheets, employee pay rate history reports, company trial balances, account analysis reports, sales statistic reports and vehicle expense reports. In addition, the original source documents also included the Company's monthly journal entries to allocate their common costs to the different BTES operating divisions.

7. After WHN's 2010 CAM Audit engagement with BTES was completed, I disposed of the company source information documents which had been provided to WHN by BTES. This disposal requirement is provided by our engagement letter with BTES and is also in accordance with industry practice for an engagement of this type. As a result, WHN no longer has a copy of the company source documents that are referenced in its workpapers.

8. However, these original source documents should be available from BTES as part of its records, albeit without WHN's original index numbering referred to in its workpapers.

FURTHER AFFIANT SAITH NOT.


WILLIAM H. NOVAK

STATE OF TEXAS:

COUNTY OF Montgomery

Personally appeared before me, a Notary Public in and for said County and State, the within named, WILLIAM H. NOVAK who, after having been duly sworn, executed the foregoing Affidavit for the purposes therein contained.

WITNESS my hand and official seal this 27th day of December, 2012.


Notary Public

My commission expires: 05/02/14

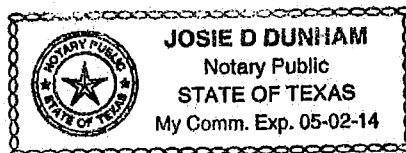
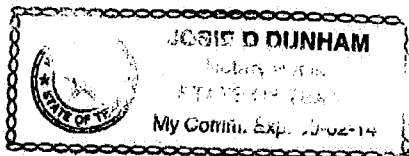


EXHIBIT A

Mark Smith

From: Hal Novak [halnovak@whnconsulting.com]
Sent: Tuesday, December 28, 2010 10:08 PM
To: McVey, Lola
Subject: 2010 CAM Audit Workpapers
Attachments: WHN A+G Workpapers.pdf; WHN Allocator Calculations.pdf; WHN Calculation of Adjusting Entries.pdf; WHN Labor Allocations.pdf; WHN Calculation of Vehicles Allocations.pdf

Lola -

Attached are the audit workpapers. Let me know if you have any questions.

Hal Novak, CPA
WHN CONSULTING
www.whnconsulting.com

Phone: 713-298-1760; Fax: 615-301-3962

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Docket No.: 12-00060

AFFIDAVIT OF MARK W. SMITH

I am Mark W. Smith, Affiant herein. I am over 18 years of age, and the information contained in this Affidavit is from my own personal knowledge.

1. I am an attorney affiliated with and a member of Miller & Martin PLLC. I sometimes serve as legal counsel for Bristol Tennessee Essential Services ("BTES"), and I am representing BTES in connection with this matter.

2. I am filing this affidavit in an effort to explain a discovery issue that has led to an issue in this case.

3. In the course of reviewing discovery documents in this case, BTES provided me and I reviewed the following email, a copy of which was subsequently submitted with the *Second Supplemental Response Of Bristol Tennessee Essential Services To Discovery Requests Of United Telephone Southeast LLC* ("Second Supplemental Response"):

From: Hal Novak [halnovak@whnconsulting.com]
Sent: Tuesday, December 28, 2010 10:08 PM
To: McVey, Lola
Subject: 2010 CAM Audit Workpapers
Attachments: WHN A+G Workpapers.pdf; WHN Allocator Calculations.pdf; WHN Calculation of Adjusting Entries.pdf; WHN Labor Allocations.pdf; WHN Calculation of Vehicles Allocations.pdf

Lola -

Attached are the audit workpapers. Let me know if you have any questions.

Hal Novak, CPA
WHN CONSULTING
www.whnconsulting.com

Phone: 713-298-1760; Fax: 615-301-3962

4. The author of the email was the auditor who performed BTES' 2010 cost allocation manual audit, and the recipient was a member of the BTES management team. The email was entitled "2010 CAM Audit Workpapers," and the text of the email states "Attached are the audit workpapers." That email transmitted five PDF files containing more than 150 pages of audit workpapers that BTES later produced in its *Second Supplemental Response* on November 26, 2012 (with certain company employee names redacted, as CenturyLink counsel ultimately agreed BTES could do).

5. On November 15, 2012, I appeared on behalf of BTES at a Status Conference that was called to consider *CenturyLink's Motion to Compel*.

6. At that Status Conference, in response to a question from the Hearing Officer, I acknowledged, based on the above email, that BTES did have a copy of the auditor workpapers from the 2010 audit of BTES' cost allocation manual.

7. Simply put, at the time of the Status Conference, I believed that BTES possessed the official 2010 cost allocation manual workpapers in their entirety based upon the title and text of the above December 2010 email. Based upon that belief, I responded to the Hearing Officer as I did.

8. When I received CenturyLink's December 7 email cataloging potentially missing documents, I was surprised by the suggestion that a number of additional workpapers may have existed separate and apart from what BTES had already produced in this Docket. Based on Mr. Novak's email, I believed that BTES had produced the full set of auditor workpapers.

9. I quickly sought and obtained confirmation that BTES did not have any additional auditor workpapers in its possession. I then confirmed this understanding to CenturyLink counsel.

10. As I reviewed CenturyLink's follow-up request, I believed that it raised new matters beyond the matters covered in the *Order Granting CenturyLink's Motion to Compel* (the "*Order on Motion to Compel*"). From my perspective, the focus of the Status Conference was BTES' objection on relevance and my acknowledgement that BTES had the auditor workpapers, and not on whether BTES had control over the independent auditor.

11. Because I was approaching CenturyLink's requests from the standpoint of BTES having possession of the workpapers and the belief that the *Order on Motion to Compel* addressed the workpapers in BTES' actual possession, I responded as I did to counsel for CenturyLink.

12. With the benefit of hindsight and having reviewed the language in the *Order Granting Motion to Enforce Compliance with Order Requiring Production of Auditor Workpapers* ("*Enforcement Order*") and language in the *Order on Motion to Compel* in light of the *Enforcement Order*, I now understand that there may have been a misunderstanding on my part on the reach of the *Order on Motion to Compel*. At a minimum, I can see that I should have more clearly articulated the basis, in communications with CenturyLink counsel, for my belief that this Order only addressed documents in BTES' possession.

13. I regret that my approach to this issue has complicated this proceeding.

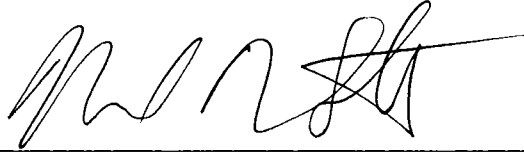
14. I am also concerned that the Hearing Officer may have perceived that BTES had withheld workpapers in its possession or had redacted additional information from the workpapers beyond personally identifying information of BTES' employees on the compensation workpapers. BTES did not withhold or redact any information from the workpapers except for this personal employee information, and BTES disclosed this limited redaction when it submitted the *Second Supplemental Response*.

15. Since receiving the *Enforcement Order*, BTES has obtained the affidavit of William H. Novak indicating that the documents attached to Mr. Novak's December 28, 2010 email were the auditor workpapers from the 2010 compliance audit. Mr. Novak indicates that the other documents referenced in CenturyLink's December 7 email were references to company source information documents that were provided to him by BTES. In other words, these documents were copies of BTES documents and not his own audit workpapers.

16. Mr. Novak indicates that he does not have copies of these documents any longer, but in an effort to clear up any misunderstandings surrounding this matter and complete discovery surrounding the 2010 cost allocation manual audit, BTES has volunteered to make available to CenturyLink copies of all documents that BTES furnished to Mr. Novak in connection with the 2010 cost allocation manual audit. Alternatively, should CenturyLink deem that offer to be burdensome, BTES will make available compilations of company source information documents related to specific allocation calculations contained in Mr. Novak's workpapers as may be requested by CenturyLink. BTES will make these documents available to CenturyLink for inspection and copying subject to the ability of BTES to redact personally

identifying information from its employee compensation records, as CenturyLink counsel has previously permitted.

FURTHER AFFIANT SAITH NOT.



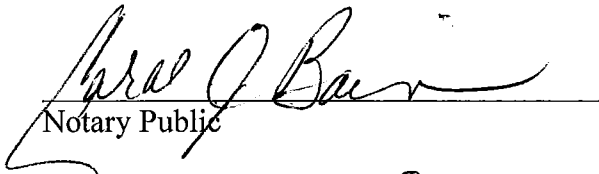
Mark W. Smith

STATE OF TENNESSEE:

COUNTY OF HAMILTON:

Personally appeared before me, a Notary Public in and for said County and State, the within named, MARK W. SMITH who, after having been duly sworn, executed the foregoing Affidavit for the purposes therein contained.

WITNESS my hand and official seal this 27th day of December, 2012.


Notary Public

My commission expires: 8-21-2013

