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090538-TP

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Sent: Tuesday, February 09, 2010 3:54 PM
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Subject: Efiling - Response to MCI's Objections to Subpoena DT
Attachments: Response to MCI's Objections to Subpoena DT.pdf

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Filed on behalf of: Qwest Communications Company, LLC

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Brief description: Response to petition of non-party MCI Communications Services, Inc., dba Verizon Business Services objecting to Subpoena Duces Tecum

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2/9/2010

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF FLORIDA

In re: Complaint of Qwest Communications Company, LLC against MCI metro Access Transmission Services (d/b/a Verizon Access Transmission Services); XO Communications Services, Inc.; tw telecom of florida, l.p.; Granite Telecommunications, LLC; Cox Florida Telcom, L.P.; Broadwing Communications, LLC; and John Does 1 through 50 (CLEC's whose true names are currently unknown) for rate discrimination in connection with the provision of intrastate switched access services in alleged violation of Sections 364.08 and 364.10, F.S.

Docket No. 090538-TP

Filed: February 9, 2010

RESPONSE TO PETITION OF NON-PARTY MCI COMMUNICATIONS SERVICES, INC. D/B/A VERIZON BUSINESS SERVICES OBJECTING TO SUBPOENA DUCES TECUM

Pursuant to Rules 1.351(c) and 1.351(d), Florida Rules of Civil Procedure, Qwest Communications Company, LLC ("Qwest"), by and through its counsel, herewith files its Response to the Petition Of Non-Party MCI Communications Services, Inc. D/B/A Verizon Business Services Objecting to Subpoena Duces Tecum ("Petition") filed on February 2, 2010 by MCI Communications Services, Inc. D/B/A Verizon Business Services ("MCI"). Pursuant to an agreement with MCI, discussed in detail *infra*, Qwest respectfully requests that the Florida Public Service Commission ("Commission") hold the relief requested in MCI's filed objections to the subpoena duces tecum (the "Subpoena") in abeyance while the companies confer regarding any differences in position regarding the Subpoena; that Qwest need not respond to the substance of MCI's objections at this time; and that the Presiding Officer (or the Commission) need not rule on MCI's objections unless and until Qwest and MCI reach an impasse. In support of this Response, Qwest states as follows:

1. On or about January 28, 2010, Qwest served the Subpoena on the registered agent for MCI in Florida. The Subpoena requested production of certain agreements and other documents needed by Qwest for the prosecution of the instant Complaint.

2. On February 2, 2010, MCI filed its Petition, raising a number of substantive objections to the Commission's personal jurisdiction and to the Subpoena. In its prayer for relief, MCI requested that the Commission enter an order sustaining its objections or, if not sustaining the objections, limiting the scope of the Subpoena and other matters *inter alia* related to confidentiality protection and extending the date for production of the requested documents.

3. In Paragraph 5 of its Petition, MCI stated: "Notwithstanding the foregoing, Verizon Business will in good-faith attempt to resolve its objections with Qwest." Pursuant to those discussions between in-house counsel – Mr. Richard Severy for MCI and Mr. Adam Sherr for Qwest – the two companies reached the following agreement: that the Presiding Officer (or Commission) hold in abeyance a ruling on MCI's petition regarding the Subpoena; and that Qwest need not respond to the substance of MCI's objections and Petition at this time, while the companies confer regarding the scope of, and timing of MCI's response to, the Subpoena; and that the Presiding Officer (or the Commission) need not rule on MCI's objections unless and until Qwest and MCI reach an impasse.

4. Qwest has been authorized by MCI to represent in this Response that MCI agrees that the Presiding Officer (or the Commission) hold in abeyance a ruling on MCI's petition regarding the Subpoena, and that Qwest need not respond to the substance of MCI's objections and Petition at this time, while the companies confer regarding the scope of, and timing of MCI's response to, the Subpoena.

5. Qwest also suggests that, in its order on the Petition and this Response, the Presiding Officer (or Commission) find that in the event that Qwest and MCI do reach an impasse over the production of the requested documents, they will so advise the Commission in a written notice and Qwest will file its substantive response seven (7) days after the filing of the notice of reaching an impasse.

6. No prejudice to any party to this complaint will result from the disposition of the Notice and this Response in the manner agreed to between Qwest and MCI.

WHEREFORE, Qwest respectfully requests that the Commission enter an order finding: that the Presiding Officer (or Commission) will hold in abeyance a ruling on MCI's petition regarding the Subpoena, and that Qwest need not respond to the substance of MCI's objections and Petition at this time, while the companies confer regarding the scope of, and timing of MCI's response to, the Subpoena. The order should also provide that, in the event that Qwest and MCI do reach an impasse over the production of the requested documents, Qwest and MCI so advise the Commission in a written notice and Qwest will file its substantive response seven (7) days after the filing of the notice of reaching an impasse.

DATED this 9th day of February 2010.

s/ Steven H. Denman

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the forgoing **RESPONSE TO PETITION OF NON-PARTY MCI COMMUNICATIONS SERVICES, INC. D/B/A VERIZON BUSINESS SERVICES OBJECTING TO SUBPOENA DUCES TECUM** has been furnished by U.S. Mail and email to the following this 9th day of February 2010:

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