

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Amended Complaint of Qwest Communications Company, LLC against MCImetro Access Transmission Services (d/b/a Verizon Access Transmission Services); tw telecom of florida, l.p.; Granite Telecommunications, LLC; Broadwing Communications, LLC.; Budget Prepay, Inc.; Bullseye Telecom, Inc.; DeltaCom, Inc.; Ernest Communications, Inc.; Flatel, Inc.; Navigator Telecommunications, LLC; PaeTec Communications, Inc.; Saturn Telecommunications Services, Inc. d/b/a EarthLink Business; US LEC of Florida, LLC; Windstream Nuvox, Inc.; and John Does 1 through 50, for unlawful discrimination.

DOCKET NO. 090538-TP

FILED: August 9, 2012

COMMISSION CLERK

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- X claim of confidentiality
notice of intent
request for confidentiality
filed by OPC

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REQUEST FOR CONFIDENTIAL CLASSIFICATION (EASTON)

Qwest Communications Company, LLC d/b/a CenturyLink ("QCC") by and through its undersigned counsel and in accordance with Rule 25-22.006, Florida Administrative Code, hereby requests that the Florida Public Service Commission ("Commission") enter an order protecting from public disclosure the portions of the Rebuttal Testimony of William R. Easton enumerated in Attachment "A" to this Request.1 As grounds for this Request, QCC states:

- 1. On August 9, 2012, QCC submitted the Rebuttal Testimony of William R. Easton. Portions of Mr. Easton's Rebuttal Testimony contain proprietary confidential business information, which is the subject of this request.
2. Most of the information for which QCC seeks confidential classification is information

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pertaining to the CLEC Respondents in this case. Much of the information was obtained by responses to subpoenas served on various IXC's and issued by the Commission in this case at QCC's request.2 The IXC's provided this information to QCC under the terms of Non-disclosure

1 QCC is also submitting today separate Requests for Confidential Classification for the Rebuttal Testimony of Dennis L. Weisman and the Rebuttal Testimony of Derek Canfield.

2 See, Subpoenas Duces Tecum without Deposition issued by the Commission on January 21, 2010 to AT&T, Sprint and MCI.

DOCUMENT NUMBER DATE

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FPSC-COMMISSION CLERK

Agreements (NDAs) between the IXCs and QCC and designated the information they provided as either “Confidential” or “Lawyers Only Confidential.” The classification of information into these categories has no bearing on the status of the information as filed with the Commission. In accordance with section 364.183, F.S., and Rule 25-22.006, F.A.C., the information file with the Commission is either “public” or “confidential and exempt” from s. 119.07, F.S. As such, for the purposes of this Request and Attachment A, the term “confidential” encompasses both of these inter-party classifications.

3. Some of the information for which QCC seeks confidential classification is information that was provided to QCC by the respondent CLECs in their responses to discovery. The CLECs provided their responses under the terms of a Nondisclosure Agreement (NDA) entered among QCC and several Respondent CLECs and designated the information as either “Confidential” or “Lawyers Only Confidential” in accordance with the Agreement’s terms. Again, these distinctions are relevant only as to how the information is handled by the parties, not to the classification of the information on file with the Commission.

4. Some of the information for which QCC claims confidential classification is QCC proprietary business information as defined in section 364.183, F.S.

5. Attachment A contains a list of the information for which QCC claims confidential classification, as well as a description of the information and the justification for classifying the information as confidential under section 364.183, F.S.

6. Two redacted copies of the confidential information are provided with this Request, as required by Rule 25-22.006, F.A.C.

7. Under separate cover, QCC is also filing on this same day a single copy of the confidential information with the confidential information highlighted as required by Rule 25-22.006, F.A.C. In addition, all of the documents which contain confidential information include a

stamp marking them as Confidential (or, in some cases, "Lawyers Only Confidential" for the purposes of the exchange of information among the parties).

8. Section 364.183(3), F.S., provides:

(3) The term "proprietary confidential business information" means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public. The term includes, but is not limited to:

- (a) Trade secrets.
- (b) Internal auditing controls and reports of internal auditors.
- (c) Security measures, systems, or procedures.
- (d) Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the company or its affiliates to contract for goods or services on favorable terms.
- (e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information.
- (f) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities.

9. The QCC information is contractual information the disclosure of which would impair QCC's efforts to contract for goods or services on favorable terms, as described in s. 364.183(3)(d). Further, the QCC access usage and purchase information is information related to QCC's competitive interests, the release of which would impair the competitive business of QCC, as described in s. 364.183(3)(e). The information related to the CLECs' respondents, which has been designated as confidential by the producing parties, would appear to fall under s. 364.183(d), which protects proprietary confidential business information in the form of contractual data and/or under s. 364.183(e), which protects competitively sensitive proprietary confidential business information. QCC is bound by the terms of the parties' NDA to protect the confidentiality of this information both in QCC's possession and in QCC's use of the information in this proceeding. Allowing parties to exchange proprietary confidential business information subject to protection under voluntarily executed NDAs facilitates the discovery process.

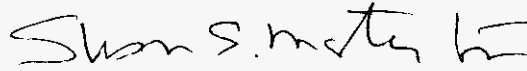
10. The QCC-produced information is intended to be, and is, treated as confidential by QCC and, to the undersigned counsels' knowledge, has not been otherwise publicly disclosed.

11. For the information that has been designated by the producing IXCs and CLECs as confidential, QCC can confirm that while that information has been in QCC's possession it has been treated as confidential and protected by QCC. However, QCC does not have personal knowledge of, and therefore cannot represent that, such information has been treated as confidential in the possession of the producing parties.

12. Because of the way the information was designated by the producing IXC or CLEC there are some inconsistencies in the information that has been requested to be protected for various CLECs. For most CLECs the existence of the agreement between the CLEC and a specific IXC, as well as the effective dates of the agreement, are public information, while the rates and terms of the agreement are confidential. However, a few CLECs have requested also to maintain confidentiality for the existence of the agreement with a particular IXC and/or the effective dates of the agreement, in addition to the rates and agreement terms. While QCC honors these CLECs' designations in this filing, QCC suggests that in the interests of administrative efficiency as this case proceeds before the Commission it may make sense for similar information for the various CLECs to be treated similarly as it relates to the confidential designations of their information.

WHEREFORE, QCC respectfully requests that the Commission enter an order protecting the documents enumerated in Attachment A as proprietary confidential business information that is not subject to public disclosure in accordance with section 364.183, F.S. and Rule 25-22.006, F.A.C.

Respectfully submitted on this 9th day of August, 2012.



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EASTON ATTACHMENT "A"

SPECIFIC JUSTIFICATION FOR CONFIDENTIAL CLASSIFICATION

Location of Confidential Information	Description of Confidential Information	Specific Justification
Easton Rebuttal Testimony, highlighted information at page 12, lines 1 and 20; page 13, lines 20-24; page 14, lines 8-12; and page 16, lines 13-16, 19, and 21-23.	This information discusses information related to CLEC Agreements that were provided to QCC in response to either IXC subpoenas issued in this docket or from the CLECs in response to QCC discovery and designated as confidential in accordance with the parties' NDAs.	QCC is requesting confidentiality for this information because it has been provided in accordance with the terms of Nondisclosure Agreements (NDAs) with either the producing IXCs or the CLECs and designated confidential by those parties. Generally, as claimed by the producing parties, the information would appear to fall under s. 364.183(d), which protects proprietary confidential business information in the form of contractual data, or 364.183(e), F.S. which protects competitively sensitive proprietary confidential business information. Further, allowing parties to exchange proprietary confidential business information subject to protection under voluntarily executed NDAs facilitates the discovery process.
Easton Rebuttal Testimony, highlighted information at page 17, lines 6-24; page 18, lines 1-24; page 19, lines 1-23; page 20, lines 1-2; and page 30, line 1.	This information relates to the terms of wholesale agreements entered into between QCC and CLECs, which information is proprietary confidential business information of QCC.	The information is contractual information the disclosure of which would impair QCC's efforts to contract for goods or services on favorable terms, as described in s. 364.183(3)(d). Further, the QCC access usage and purchase information is information related to QCC's competitive interests, the release of which would impair the competitive business of QCC, as described in s. 364.183(3)(e).

<p>Easton Rebuttal Testimony, highlighted information at page 33, lines 7-13; page 36, line 24; and page 37, lines 1-2.</p>	<p>This information discusses information related to the MCI-ATT switched access agreement that was provided by MCI to QCC in response to discovery in Colorado and designated confidential under the terms of the parties' NDA.</p>	<p>QCC is requesting confidentiality for this information because it has been provided in accordance with the terms of the NDA between QCC and MCI and designated as confidential by MCI. Generally, as claimed by the MCI, the information would appear to fall under s. 364.183(d), which protects proprietary confidential business information in the form of contractual data, or 364.183(e), F.S. which protects competitively sensitive proprietary confidential business information. Further, allowing parties to exchange proprietary confidential business information subject to protection under voluntarily executed NDAs facilitates the discovery process.</p>
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