

**Ruth Nettles**

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**From:** Kelley, Gerri [Gerri.Kelley@dgslaw.com]  
**Sent:** Friday, February 05, 2010 12:23 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Denman, Steve  
**Subject:** Response to AT&T's Notice of Non-Party's Objection to Subpoena Duces Tecum  
**Attachments:** Response to AT&T's Notice of Non-Party's Objection to Subpoena Duces Tecum.pdf

**Person Filing:** Steven H. Denman, Florida Bar No. 0191732  
Davis Graham & Stubbs LLP  
9040 Town Center Parkway, Suite 213  
Lakewood Ranch, FL 34202  
941-487-3657  
941-552-5650 (facsimile)  
[Steve.Denman@dgslaw.com](mailto:Steve.Denman@dgslaw.com)

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**Filed on behalf of:** Qwest Communications Company, LLC

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**Brief description:** Response to AT&T's Notice of Non-Party's Objection to Subpoena Duces Tecum

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**BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF FLORIDA**

In re: Complaint of Qwest Communications Company, LLC against MCImetro 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 5, 2010

**RESPONSE TO AT&T'S NOTICE OF NON-PARTY'S OBJECTION  
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 Notice of Non-Party's Objection to Subpoena Duces Tecum filed on January 29, 2010 by AT&T Inc. (via special appearance), AT&T Corp. (via special appearance), and AT&T Communications of the Southern States, LLC ("AT&T"). Pursuant to an agreement with AT&T, discussed in detail *infra*, Qwest respectfully requests that the Florida Public Service Commission ("Commission") hold the relief requested in AT&T'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 AT&T's objections at this time; and that the Presiding Officer (or the Commission) need not rule on AT&T's objections unless and until Qwest and AT&T reach an impasse. In support of this Motion, Qwest states as follows:

1. On or about January 15, 2010, Qwest served the Subpoena on the registered agent for AT&T in Florida. The Subpoena requested production of certain agreements and other documents needed by Qwest for the prosecution of the instant Complaint.

2. On January 29, 2010 AT&T filed its Notice of Non-Party's Objection to Subpoena Duces Tecum, raising a number of substantive objections to the Commission's personal jurisdiction and to the Subpoena. In its prayer for relief, AT&T 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, cost and due date for production of the requested documents.

3. In Paragraph 6 of its Notice, AT&T stated: "Notwithstanding the above, AT&T is in good-faith attempting to resolve the above objections with Qwest." Pursuant to those discussions between in-house counsel – Mr. Brian Moore for AT&T and Mr. Adam Sherr for Qwest – the two companies reached the following agreement: that the Presiding Officer (or Commission) hold the relief requested in AT&T's filed objections to the Subpoena in abeyance while the companies confer regarding any differences in position regarding the Subpoena; that the matter of AT&T's objections to the Subpoena should be held in abeyance; that Qwest need not respond to the substance of AT&T's objections at this time; and that the Presiding Officer (or the Commission) need not rule on AT&T's objections unless and until Qwest and AT&T reach an impasse.

4. Qwest has been authorized by AT&T to represent in this Response that AT&T agrees that the matter of its objections to the Subpoena should be held in abeyance, that Qwest need not respond to the substance of AT&T's objections at this time, and that the Presiding

Officer (or the Commission) need not rule on AT&T's objections unless and until Qwest and AT&T reach an impasse.

5. Qwest also suggests that, in its order on the Notice and this Response, the Presiding Officer (or Commission) find that in the event that Qwest and AT&T 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 AT&T.

WHEREFORE, Qwest respectfully requests that the Commission enter an order finding: that the Presiding Officer (or Commission) hold the relief requested in AT&T's filed objections to the Subpoena in abeyance while the companies confer regarding any differences in position and regarding the Subpoena; that the matter of AT&T's objections to the Subpoena should be held in abeyance; that Qwest need not respond to the substance of AT&T's objections at this time; and that the Presiding Officer (or the Commission) need not rule on AT&T's objections unless and until Qwest and AT&T reach an impasse. The order should also provide that, in the event that Qwest and AT&T do reach an impasse over the production of the requested documents, Qwest and AT&T 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 5th day of February 2010.

s/ Steven H. Denman

Steven H. Denman, Florida Bar No. 0191732  
Davis Graham & Stubbs LLP  
9040 Town Center Parkway, Suite 213  
Lakewood Ranch, FL 34202  
941-487-3657  
941-552-5650 (facsimile)  
Steve.Denman@dgsllaw.com

and

Alex M. Duarte (not admitted in Florida)  
Corporate Counsel  
Qwest  
421 SW Oak Street  
Room 810  
Portland, OR 97204  
Tel: 503-242-5623  
Fax: 503-242-8589  
Email: Alex.Duarte@qwest.com

Adam L. Sherr (not admitted in Florida)  
Corporate Counsel  
Qwest  
1600 7<sup>th</sup> Avenue, Room 1506  
Seattle, WA 98191  
Tel: 206-398-2507  
Fax: 206-343-4040  
Email: Adam.Sherr@qwest.com

Attorneys for Qwest Communications  
Company, LLC

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the forgoing **Response to At&T's Notice of Non-Party's Objection to Subpoena Duces Tecum** has been furnished by U.S. Mail and email to the following this 5<sup>th</sup> day of February 2010:

*Florida Public Service Commission:*

Theresa Tan, Esq.  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850  
[ltan@psc.state.fl.us](mailto:ltan@psc.state.fl.us)

*Qwest Communications Company, LLC:*

Alex M. Duarte, Esq.  
Qwest Communications Company, LLC  
421 SW Oak Street, Rm. 810  
Portland, OR 97204  
[alex.duarte@qwest.com](mailto:alex.duarte@qwest.com)

*MCImetro Access Transmission Services  
dba Verizon Access Transmission Services:*

Dulaney O'Roarke, Esq.  
Verizon  
Six Concourse Parkway, NE - Suite 800  
Atlanta, GA 30328  
[de.oroark@verizon.com](mailto:de.oroark@verizon.com)

*Qwest Communications Company, LLC:*

Adam L. Scherr  
Qwest Communications Company, LLC  
1600 7<sup>th</sup> Avenue, Rm. 1506  
Seattle, WA 98191  
[adam.scherr@qwest.com](mailto:adam.scherr@qwest.com)

*Granite Telecommunications, LLC:*

Andrew M. Klein, Esq.  
Allen Zoracki, Esq.  
Klein Law Group PLLC  
1250 Connecticut Ave., N.W., Ste. 200  
Washington DC 20036  
[aklein@kleinlawpllc.com](mailto:aklein@kleinlawpllc.com)  
[azoracki@kleinlawpllc.com](mailto:azoracki@kleinlawpllc.com)

*tw telecom of florida l.p.*

Gene Adams, Esq.  
Pennington, Moore, Wilkinson, Bell & Dunbar  
215 South Monroe Street, 2<sup>nd</sup> Floor  
Tallahassee, FL 32301  
[gene@penningtonlawfirm.com](mailto:gene@penningtonlawfirm.com)

*Broadwing Communications, LLC:*

Gregory Diamond, Esq.  
Broadwing Communications, LLC  
1025 Eldorado Blvd.  
Broomfield, CO 80021  
[greg.diamond@level3.com](mailto:greg.diamond@level3.com)

*Broadwing Communications, LLC:*

Marsha E. Rule, Esq.  
Rutledge, Ecenia & Purnell  
P.O. Box 551  
Tallahassee, FL 32302-0551  
[marsha@reuphlaw.com](mailto:marsha@reuphlaw.com)

*Cox Communications and  
XO Communications Services Inc.:*  
Beth Keating, Esq.  
Matthew Feil, Esq.  
Akerman Senterfitt  
Highpoint Center, 12<sup>th</sup> Floor  
106 East College Avenue  
Tallahassee, FL 32301  
[beth.keating@akerman.com](mailto:beth.keating@akerman.com)  
[matthew.feil@akerman.com](mailto:matthew.feil@akerman.com)

*AT&T Inc., AT&T Corp., AT&T  
Communications of the Southern States, LLC*  
Manuel A. Gurdian  
c/o Gregory R. Follensbee  
150 South Monroe Street, Suite 400  
Tallahassee, FL 32301  
[manuel.gurdian@att.com](mailto:manuel.gurdian@att.com)

*XO Communications Services, Inc.*  
Gregory J. Kopta  
Davis Wright Tremaine LLP  
1201 Third Ave., Ste. 2200  
Seattle, WA 98101

*Sprint Communications Company Limited  
Partnership, and SprintCom, Inc.*  
Douglas C. Nelson, Esq.  
233 Peachtree Street NE, Suite 2200  
Atlanta, GA 30339-3166  
[douglas.c.nelson@sprint.com](mailto:douglas.c.nelson@sprint.com)

*/s/ Geraldine Kelley*