

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); XO Communications Services, Inc.; tw telecom of florida, l.p.; Granite Telecommunications, LLC; Broadwing Communications, LLC; Access Point, Inc.; Birch Communications, Inc.; Budget Prepay, Inc.; Bullseye Telecom, Inc.; DeltaCom, Inc.; Ernest Communications, Inc.; Flatel, Inc.; Navigator Telecommunications, LLC; PaeTec Communications, Inc.; STS Telecom, LLC; US LEC of Florida, LLC; Windstream Nuvox, Inc.; and John Does 1 through 50, for unlawful discrimination.

DOCKET NO. 090538-TP

DATED: September 14, 2012

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COMMISSION
CLERK

COMMISSION STAFF'S PREHEARING STATEMENT

Pursuant to Order No. PSC-12-0048-PCO-TP, filed February 2, 2012, the Staff of the Florida Public Service Commission files its Prehearing Statement.

a. All Known Witnesses

Staff has no known witnesses at this time.

b. All Known Exhibits

Staff has no known exhibits at this time.

c. Staff's Statement of Basic Position

Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions stated herein.

d. Staff's Position on the Issues

ISSUE 1: For conduct occurring prior to July 1, 2011, does the Florida Public Service Commission retain jurisdiction over:

DOCUMENT NUMBER-DATE

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(a) Qwest's First Claim for Relief alleging violation of 364.08(1) and 364.10(1), Florida Statutes (F.S.) (2010);

(b) Qwest's Second Claim for Relief alleging violation of 364.04(1) and (2), F.S. (2010);

(c) Qwest's Third Claim for Relief alleging violation of 364.04(1) and (2), F.S. (2010)?

POSITION: Staff has no position at this time.

ISSUE 2: For conduct occurring on or after July 1, 2011, does the Florida Public Service Commission retain jurisdiction over:

(a) Qwest's First Claim for Relief alleging violation of 364.08(1) and 364.10(1), F.S. (2010);

(b) Qwest's Second Claim for Relief alleging violation of 364.04(1) and (2), F.S. (2010);

(c) Qwest's Third Claim for Relief alleging violation of 364.04(1) and (2) F.S. (2010)?

POSITION: Staff has no position at this time.

ISSUE 3: Which party has (a) the burden to establish the Commission's subject matter jurisdiction, if any, over Qwest's First, Second, and Third Claims for Relief, as pled in Qwest's Amended Complaint, and (b) the burden to establish the factual and legal basis for each of these three claims?

POSITION: Staff has no position at this time.

ISSUE 4: Does Qwest have standing to bring a complaint based on the claims made and remedies sought in (a) Qwest's First Claim for Relief; (b) Qwest's Second Claim for Relief; (c) Qwest's Third Claim for relief?

POSITION: Staff has no position at this time.

ISSUE 5: Has the CLEC engaged in unreasonable rate discrimination, as alleged in Qwest's First Claim for Relief, with regard to its provision of intrastate switched access?

POSITION: Staff has no position at this time.

ISSUE 6: Did the CLEC abide by its Price List in connection with its pricing of intrastate switched access service? If not, was such conduct unlawful as alleged in Qwest's Second Claim for Relief?

POSITION: Staff has no position at this time.

ISSUE 7: Did the CLEC abide by its Price List by offering the terms of off-Price List agreements to other similarly-situated customers? If not, was such conduct unlawful, as alleged in Qwest's Third Claim for Relief?

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POSITION: Staff has no position at this time.

ISSUE 8: Are Qwest's claims barred or limited, in whole or in part, by:

- a) the statute of limitations;
- b) Ch. 2011-36, Laws of Florida;
- c) terms of a CLEC's price list;
- d) waiver, laches, or estoppel;
- e) the filed rate doctrine;
- f) the prohibition against retroactive ratemaking;
- g) the intent, pricing, terms or circumstances of any separate service agreements between Qwest and any CLEC;
- h) any other affirmative defenses pled or any other reasons?

POSITION: Staff has no position at this time.

ISSUE 9a: If the Commission finds in favor of Qwest on (a) Qwest's First Claim for Relief alleging violation of 364.08(1) and 364.10 (1), F.S. (2010); (b) Qwest's Second Claim for Relief alleging violation of 364.04(1) and (2), F.S. (2010); and/or (c) Qwest's Third Claim for Relief alleging violation of 364.04(1) and (2) F.S. (2010), what remedies, if any, does the Commission have the authority to award Qwest?

POSITION: Staff has no position at this time.

ISSUE 9b: If the Commission finds a violation or violations of law as alleged by Qwest and has authority to award remedies to Qwest per the preceding issue, for each claim:
(i) If applicable, how should the amount of any relief be calculated and when and how should it be paid?
(ii) Should the Commission award any other remedies?

POSITION: Staff has no position at this time.

e. Stipulated Issues

Staff is not aware of any stipulated issues at this time.

f. Pending Motions

There are no pending motions at this time.

g. Pending Confidentiality Requests

There are 8 pending requests for confidential classification.

1. Qwest Communications Company LLC's Request for Confidential Classification of Portions of Dennis L. Weisman's Direct Testimony (Document No. 03890-12).

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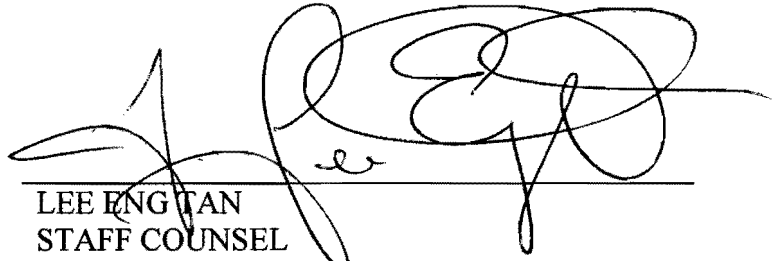
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2. Qwest Communications Company LLC's Request for Confidential Classification of Portions of Derek Canfield's Direct Testimony and Exhibits (Document No. 03893-12).
 3. Qwest Communications Company LLC's Request for Confidential Classification of Portions of William Easton's Direct Testimony (Document No. 03896-12).
 4. Qwest Communications Company LLC's Request for Confidential Classification of Portions of Derek Canfield's Rebuttal Testimony (Document No. 05440-12).
 5. Qwest Communications Company LLC's Request for Confidential Classification of Portions of Dennis L. Weisman's Rebuttal Testimony (Document No. 05443-12).
 6. Qwest Communications Company LLC's Request for Confidential Classification of Portions of William Easton's Rebuttal Testimony (Document No. 05446-12).
 7. Verizon Access's Request for Confidential Classification of Portions of Peter H. Reynolds' Direct Testimony and Exhibits PHR-1 through PHR-25 (Document No. 03871-12).
 8. Verizon Access's Request for Confidential Classification of Portions of Peter H. Reynolds' Rebuttal Testimony and Exhibits PHR-26, PHR-28, PHR-32 and PHR-35 (Document No. 05434-12).
- h. Objections to Witness Qualifications as an Expert
- Staff has no objections to any witness' qualifications as an expert in this proceeding.
- i. Compliance with Order No. PSC-12-0048-PCO-TP

Staff has complied with all requirements of the Order Establishing Procedure entered in this docket.

Respectfully submitted this 14th day of September, 2012.

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LEE ENG TAN
STAFF COUNSEL
FLORIDA PUBLIC SERVICE COMMISSION
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In re: Amended 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; Broadwing Communications, LLC; Access Point, Inc.; Birch Communications, Inc.; Budget Prepay, Inc.; Bullseye Telecom, Inc.; DeltaCom, Inc.; Ernest Communications, Inc.; Flatel, Inc.; Navigator Telecommunications, LLC; PaeTec Communications, Inc.; STS Telecom, LLC; US LEC of Florida, LLC; Windstream Nuvox, Inc.; and John Does 1 through 50, for unlawful discrimination.

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DATED: September 14, 2012

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of STAFF'S PREHEARING STATEMENT has been filed with Office of Commission Clerk and one copy has been furnished to the following by electronic and U.S. Mail, on this 14th day of September, 2012:

MCImetro Access Transmission Service
d/b/a/ Verizon Access Transmission Services
Dulaney L. O'Roark III
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Alpharetta, Georgia 30022

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Granite Telecommunications, LLC
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Klein Law Group, PLLC
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Broadwing Communications, LLC
Marsha E. Rule
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Ernest Communications, Inc.
General Counsel
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tw telecom of florida, l.p., XO Communications
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Birch Communications, Inc., DeltaCom, Inc.
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San Francisco, CA 94111-6533

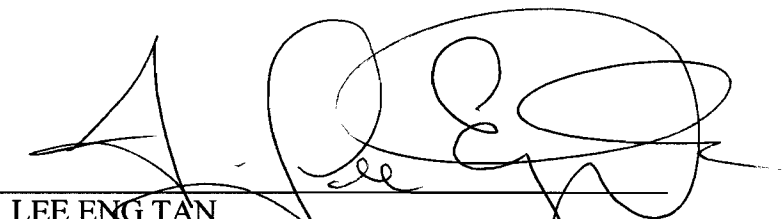
PaeTec Communications, Inc.
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d/b/a PAETEC Business Services
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A handwritten signature in black ink, appearing to read 'Lee Eng Tan', is written over a horizontal line. The signature is stylized and somewhat cursive.

LEE ENG TAN
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