

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
ORDER NO. PSC-13-0170-CFO-TP
ISSUED: April 25, 2013

ORDER GRANTING QWEST COMMUNICATIONS COMPANY'S REQUEST FOR CONFIDENTIAL CLASSIFICATION (DOCUMENT NOS. 08995-11, 01076-12, 01655-12, 02691-12, 03035-12, 03038-12, 03608-12, 03695-12, 03884-12, 04765-12, 05089-12, 05261-12, 06397-12, 06613-12, and 07160-12 (X-REF 07353-12))

On November 13, 2012 pursuant to Rule 25-22.006, Florida Administrative Code, Qwest Communications Company (QCC) filed a request for confidential classification (Request) of certain materials produced by QCC which were admitted into the hearing records as stipulated exhibits and related information referenced in certain testimony. QCC asserts that the confidential information in the documents is intended to be proprietary, is treated as proprietary, and has not been publicly disclosed. QCC requests that the Commission grant confidential classification for the documents for a period of 18 months from the date of the issuance of this Order, pursuant to Section 364.183, Florida Statutes.

Request for Confidential Classification

Section 364.183, Florida Statutes, provides that "any records received by the Commission which are shown and found by the Commission to be proprietary confidential business information shall be kept confidential and shall be exempt from Section 119.07(1) [the Public Records Act]." Pursuant to Section 364.183, Florida Statutes, proprietary confidential business information includes information that is intended to be and is treated by the company as private, in that disclosure of the information would cause harm to the company's ratepayers or business operations, and has not been voluntarily disclosed to the public. Confidential business information includes, but is not limited to, the following:

DOCUMENT NUMBER DATE

02178 APR 25 2013

FPSC-COMMISSION CLERK

- “Trade secrets.”
- “Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms.
- “Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information”. *Id* at (a), (d) and (e).

QCC contends that the information, described with specific justification in Attachment A, “is intended to be, and is treated as confidential by QCC and . . . has not been otherwise publicly disclosed.” The information is generally described as contracts and contractual data, related to competitive interests and trade secrets. QCC argues that disclosure of the information would impair QCC’s competitive business ability to protect itself, give other market participants a competitive advantage over QCC, and adversely affect QCC’s ability to negotiate contracts to the benefit of its customers. Based on the foregoing, the Company asserts that the information is entitled to confidential classification pursuant Section 364.183, F.S.

Ruling

Upon review, I find that the information identified in Document Nos. 08995-11, 01076-12, 01655-12, 02691-12, 03035-12, 03038-12, 03608-12, 03695-12, 03884-12, 04765-12, 05089-12, 05261-12, 06397-12, 06613-12, 07160-12 (x- ref 07353-12), more specifically described in Attachment A, is treated by the Company as private, has not otherwise been disclosed, and is (a) contractual data, the disclosure of which would impair the efforts of the Company to contract for goods or services on favorable terms, or (b) related to competitive interests, the disclosure of which would impair the competitive business of the provider of the information. I find that disclosure of the identified information would cause harm to QCC’s ratepayers or to its business operations. Thus, the information shall be granted confidential classification pursuant to Section 364.183, F.S.

Based on the foregoing, it is

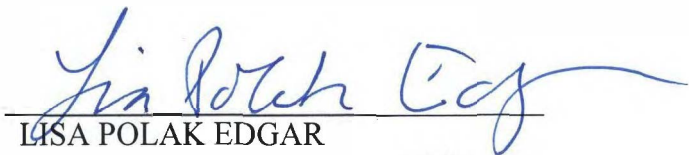
ORDERED by Commissioner Lisa Polak Edgar, as Prehearing Officer, that QCC’s Request for Confidential Classification of Document Nos. 08995-11, 01076-12, 01655-12, 02691-12, 03035-12, 03038-12, 03608-12, 03695-12, 03884-12, 04765-12, 05089-12, 05261-12, 06397-12, 06613-12, 07160-12 (x- ref 07353-12), as detailed in Attachment A, is granted. It is further

ORDERED that the information in Document Nos. 08995-11, 01076-12, 01655-12, 02691-12, 03035-12, 03038-12, 03608-12, 03695-12, 03884-12, 04765-12, 05089-12, 05261-12, 06397-12, 06613-12, 07160-12 (x- ref 07353-12) for which confidential classification has been granted shall remain protected from disclosure for a period of 18 months from the date of

issuance of this Order. At the conclusion of the 18-month period, the confidential information will no longer be exempt from Section 119.07(1), F.S., unless QCC or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information. It is further

ORDERED that this Order shall be the only notification by the Commission to the parties of the date of declassification of the materials discussed herein.

By ORDER of Commissioner Lisa Polak Edgar, as Prehearing Officer, this 25th day of April, 2013.



LISA POLAK EDGAR

Commissioner and Prehearing Officer

Florida Public Service Commission

2540 Shumard Oak Boulevard

Tallahassee, Florida 32399

(850) 413-6770

www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

TLT

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

ATTACHMENT A

Hearing Exhibit No.	Description and Location of Confidential Information	Date & Document Number of Claim	Confidential Document Number	Specific Justification
5	Qwest Communications Company LLC's Objections & Responses To Staff's First Set Of Interrogatories (No. 16) <i>(090538 Hearing Exhibits 00211)</i> Highlighted information in QCC's Response to Staff Interrogatory No. 16 on page 22 of QCC's Response	12/15/2011 #08994-11	#08995-11	This exhibit contains information concerning QCC's intrastate access usage which is proprietary confidential business information of QCC. This 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).
6	Qwest Communications Company LLC's Objections And Supplemental Response To Staff's First Set Of Interrogatories (No. 19) <i>(090538 Hearing Exhibits 00212)</i> Highlighted information in QCC's Supplemental Response to Staff's Interrogatory No. 19 on page 3 of QCC's Supplemental Response	5/11/2012 #03034-12	#03035-12	This exhibit contains information concerning QCC's disputes with CLECs regarding their intrastate access billings to QCC which is proprietary confidential business information of QCC. This 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).

ATTACHMENT A

Hearing Exhibit No.	Description and Location of Confidential Information	Date & Document Number of Claim	Confidential Document Number	Specific Justification
9	Qwest Communications Company LLC's Objections & Responses to Broadwing's Interrogatory (No. 12) [090538 Hearing Exhibits 00285] Highlighted information in QCC's Response to Broadwing's Interrogatory No. 12 on page 17 of QCC's Response	3/19/2012 #01654-12	#01655-12	This exhibit contains information relating to a confidential settlement agreement between QCC and AT&T which is proprietary confidential business information of QCC. This information is 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, as described in s. 364.183(3)(d).
10	Qwest Communications Company LLC's Supplemental Response To Broadwing's Document Request (No. 7) [090538 Hearing Exhibits 00293] Entire document – QCC POD 002903 through QCC POD 002906	5/11/2012 #03037-12	#03038-12	This exhibit contains information relating to Broadwing's intrastate access billings to QCC. This information is derived from IXC/CLEC agreements provided to QCC in accordance with NDAs between the parties and has been designated as confidential by the producing parties which appears to be contractual data, the disclosure of which would impair the efforts of the contracting parties to contract for goods or services on favorable terms. In addition, it includes information concerning QCC's usage and purchase of intrastate access which is proprietary confidential business information of QCC and is information related to QCC's competitive interests, the disclosure of which would impair the competitive business interests of QCC. Further, the information, as prepared and produced by QCC, is trade secret information, as described in s. 364.183(3)(a).

ATTACHMENT A

Hearing Exhibit No.	Description and Location of Confidential Information	Date & Document Number of Claim	Confidential Document Number	Specific Justification
11	Qwest Communications Company LLC's Second Supplemental Response To Broadwing's Document Request (No. 7) [090538 Hearing Exhibits 00302] Entire document – QCC POD 002928 through QCC POD 002930	6/4/2012 #03607-12	#03608-12	This exhibit contains information relating to Broadwing's intrastate access billings to QCC. This information is derived from IXC/CLEC agreements provided to QCC in accordance with NDAs between the parties and has been designated as confidential by the producing parties which appears to be contractual data, the disclosure of which would impair the efforts of the contracting parties to contract for goods or services on favorable terms as described in s. 364.183(3)(d). In addition, it includes information concerning QCC's usage and purchase of intrastate access which is proprietary confidential business information of QCC and is information related to QCC's competitive interests, the disclosure of which would impair the competitive business interests of QCC as described in s. 364.183(3)(e). Further, the information, as prepared and produced by QCC, is trade secret information, as described in s. 364.183(3)(a).

ATTACHMENT A

Hearing Exhibit No.	Description and Location of Confidential Information	Date & Document Number of Claim	Confidential Document Number	Specific Justification
12	Qwest Communications Company LLC's Supplemental Response To Broadwing Communications LLC's Second Document Request (No. 7) [090538 Hearing Exhibits 00311] . Entire document, QCC POD 002931 through QCC POD 002940	6/6/2012 #03694-12	#03695-12	This exhibit contains information relating to Broadwing's intrastate access billings to QCC. This information is derived from IXC/CLEC agreements provided to QCC in accordance with NDAs between the parties and has been designated as confidential by the producing parties which appears to be contractual data, the disclosure of which would impair the efforts of the contracting parties to contract for goods or services on favorable terms as described in s. 364.183(3)(d). In addition, it includes information concerning QCC's usage and purchase of intrastate access which is proprietary confidential business information of QCC and is information related to QCC's competitive interests, the disclosure of which would impair the competitive business interests of QCC as described in s. 364.183(3)(e). Further, the information, as prepared and produced by QCC, is trade secret information, as described in s. 364.183(3)(a).

ATTACHMENT A

Hearing Exhibit No.	Description and Location of Confidential Information	Date & Document Number of Claim	Confidential Document Number	Specific Justification
17	<p>Qwest Communications Company, LLC's Objections & Response To BullsEye Telecom, Inc.'s Second Set Of Document Requests (Nos. 10-12) [090538 Hearing Exhibits 00390]</p> <p>Entire CD- QCC POD 002998 (Exh. DAC-6) QCC POD 002999 (Exh. DAC-5) QCC POD 003000 (BullsEye FL State Analysis) QCC POD 003001 (BullsEye FL Analysis Database)</p>	7/30/2012 #05088-12	#05089-12	<p>This exhibit includes information which represents the same information in Canfield Direct Testimony Exhibits DAC-5 and DAC-6 in Excel format. In addition, this information includes the supporting work papers and other supporting documents for Exhibits DAC-5 and DAC-6. DAC-5 and DAC-6 have already been granted confidential classification pursuant to QCC's Request in Order No. PSC-12-0523-CFO-TP.</p> <p>This information is derived from IXC/CLEC agreements provided to QCC in accordance with NDAs between the parties and has been designated as confidential by the producing parties which appears to be contractual data, the disclosure of which would impair the efforts of the contracting parties to contract for goods or services on favorable terms as described ins. 364.183(3)(d). In addition, it includes information concerning QCC's usage and purchase of intrastate access which is proprietary confidential business information of QCC and is information related to QCC's competitive interests, the disclosure of which would impair the competitive business interests of QCC as described in s. 364.183(3)(e). Further, the information, as prepared and produced by QCC, is trade secret information, as described in s. 364.183(3)(a).</p>

ATTACHMENT A

Hearing Exhibit No.	Description and Location of Confidential Information	Date & Document Number of Claim	Confidential Document Number	Specific Justification
18	<p>Qwest Communications Company, LLC's Objections & Responses To BullsEye Interrogatories (Nos. 16 and 19); and document request (No. 18) [090538 Hearing Exhibits 00426]</p> <p>Highlighted information in QCC's Response to BullsEye's Interrogatory No. 16 on page 13 of QCC's Response; entire document provided as an attachment to QCC's Response to BullsEye's Interrogatory No. 19; and entire document in QCC's Response to BullsEye's POD No. 18, QCC POD 003004 – QCC POD 003040</p>	10/1/2012 #06612-12	#06613-12	<p>This exhibit includes: 1) information concerning a confidential settlement agreement between QCC and AT&T which information is 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, as described in s. 364.183(3)(d); 2) QCC's internal document retention policy; this information is which is proprietary confidential business information and trade secret information of QCC and 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)(a) and (e); 3) information concerning the terms of QCC's arrangement with TEOCO, which information is 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, as described in s. 364.183(3)(d).</p>
23	<p>Qwest Supplemental Response to TW Telecom of Florida, L.P.'s Document Request Nos. 3 & 4 [090528 Hearing Exhibits 00515]</p> <p>Entire CD QCC POD001961- QCC POD 002137</p>	2/24/2012 #01075-12	#01076-12	<p>This exhibit includes: 1) QCC's regulatory assessment fee reports filed with the Commission under claims of confidentiality and 2) QCC's responses to the Commission's data requests for its annual report on competition, also filed with the Commission under claims of confidentiality. This information is proprietary confidential business information of QCC and 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). Further, the information, as prepared and produced by QCC, is trade secret information, as described in s. 364.183(3)(a).</p>

ATTACHMENT A

Hearing Exhibit No.	Description and Location of Confidential Information	Date & Document Number of Claim	Confidential Document Number	Specific Justification
24	<p>Qwest Communications Company, LLC's Objections & Responses To TW Telecom Of Florida, L.P.'s Third Set Of Interrogatories (No. 14), and Fourth Set Of Document Requests (No. 13) (090538 Hearing Exhibit No. 00516)</p> <p>Highlighted information in Attachments to QCC's Response to TW Telecom of Florida, L.P.'s Interrogatory No. 14</p> <p>Entire CD QCC POD 003002 (FL Snapshot) QCC POD 003003 (FL Snapshot)</p>	8/2/2012 #05260-12	#05261-12	<p>This exhibit includes: 1) a chart of all of the settlement agreements received from IXCs as a result of the subpoenas issued in this proceeding and provided to QCC in accordance with NDAs and 2) calculations of the amount of overcharges for numerous CLECs based on the information received from the IXCs as well as proprietary confidential business information of QCC. This information is derived from IXC/CLEC agreements provided to QCC in accordance with NDAs between the parties and has been designated as confidential by the producing parties which appears to be contractual data, the disclosure of which would impair the efforts of the contracting parties to contract for goods or services on favorable terms as described in s. 364.183(3)(d). In addition, it includes information concerning QCC's usage and purchase of intrastate access which is proprietary confidential business information of QCC and is information related to QCC's competitive interests, the disclosure of which would impair the competitive business interests of QCC as described in s. 364.183(3)(e). Further, the information, as prepared and produced by QCC, is trade secret information, as described in s. 364.183(3)(a).</p>

ATTACHMENT A

Hearing Exhibit No.	Description and Location of Confidential Information	Date & Document Number of Claim	Confidential Document Number	Specific Justification
25	Qwest Communications Company, LLC Supplemental Objections and Responses to TW Telecom Of Florida, L.P.'s Third Set Of Interrogatories (No. 14) [090538 Hearing Exhibit No. 00517] Highlighted information in Attachments to QCC's Supplemental Response to TW Telecom of Florida, L.P.'s Interrogatory No. 14	9/21/2012 #06396-12	#06397-12	This exhibit contains information regarding the various settlement agreements QCC received in response to the IXC subpoenas issued in this case and provided to QCC in accordance with NDAs. This information has been designated as confidential by the producing parties which appears to be contractual data, the disclosure of which would impair the efforts of the contracting parties to contract for goods or services on favorable terms as described in s. 364.183(3)(d).

ATTACHMENT A

Hearing Exhibit No.	Description and Location of Confidential Information	Date & Document Number of Claim	Confidential Document Number	Specific Justification
26	<p>Qwest Communications Company, LLC's Response TW Telecom Of Florida, L.P.'s Third Set Of Document Requests (Nos. 10-12) <i>[090538 Hearing Exhibit No. 00518]</i></p> <p>Entire CD QCC POD 002960 (Exhibit DAC-25) QCC POD 002961 (Exhibit DAC-26) QCC POD 002962 (TW Telecom State Analysis) QCC POD 002963 (TWT FL Analysis)</p>	7/17/2012 #04764-12	#04765-12	<p>The information contained in this exhibit represents the same information in Canfield Direct Testimony Exhibits DAC-25 and DAC-26 in Excel format. In addition, this information includes the supporting work papers and other supporting documents for Exhibits DAC-25 and DAC-26. DAC-25 and DAC-26 have already been granted confidential classification pursuant to QCC's Request in Order No. PSC-12-0523-CFO-TP.</p> <p>This information is derived from IXC/CLEC agreements provided to QCC in accordance with NDAs between the parties and has been designated as confidential by the producing parties which appears to be contractual data, the disclosure of which would impair the efforts of the contracting parties to contract for goods or services on favorable terms as described ins. 364.183(3)(d). In addition, it includes information concerning QCC's usage and purchase of intrastate access which is proprietary confidential business information of QCC and is information related to QCC's competitive interests, the disclosure of which would impair the competitive business interests of QCC as described in s. 364.183(3)(e). Further, the information, as prepared and produced by QCC, is trade secret information, as described in s. 364.183(3)(a).</p>

ATTACHMENT A

Hearing Exhibit No.	Description and Location of Confidential Information	Date & Document Number of Claim	Confidential Document Number	Specific Justification
28	<p>Qwest Supplemental Discovery Responses to Birch Communications First Set Of Interrogatories (Nos. 1-4) and Document Requests (Nos. 1-3) [090538 Hearing Exhibits 00521-00528]</p> <p>Highlighted information in QCC's Response to Birch's Interrogatory No. 1 on pages 3-5 of QCC's Response and highlighted information in QCC's Response to Birch's Interrogatory No. 4 on pages 6 and 7 of QCC's Response</p>	4/27/2012 #02690-12	#02691-12	<p>This exhibit contains information concerning wholesale service agreements between QCC and CLECs which is proprietary confidential business information of QCC and is 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, as described in s. 364.183(3)(d). In addition, this exhibit contains information concerning QCC disputes with other CLECs regarding access services provided to QCC which is proprietary confidential business information of QCC and 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>

ATTACHMENT A

Hearing Exhibit No.	Description and Location of Confidential Information	Date & Document Number of Claim	Confidential Document Number	Specific Justification
84	<p>Late-filed stipulated hearing Exhibit 84, which is the confidential material within QCC's objections and supplemental responses to BullsEye's 2nd set of interrogatories (Nos. 10-12 and 17-18) and 3rd set of document requests (Nos. 17 and 22)</p> <p>Highlighted information in QCC's Response to BullsEye Interrogatory No. 10 on page 3 of QCC's Supplemental Response; the entirety of documents produced by QCC in Response to BullsEye's POD #17, QCC POD 003041 through QCC POD 003163</p>	<p>10/22/2012 #07159-12</p> <p>(See Also BullsEye #07352-12 filed on 10/30/12)</p>	<p>#07160-12</p> <p>(See Also BullsEye Document #07353-12)</p>	<p>This exhibit contains information concerning wholesale agreements QCC entered into with wholesale customers which is proprietary confidential business information of QCC and is 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, as described in s. 364.183(3)(d).</p>

ATTACHMENT A

Hearing Exhibit No.	Description and Location of Confidential Information	Date & Document Number of Claim	Confidential Document Number	Specific Justification
N/A	Don Wood Direct Testimony Highlighted information at page 56, line 18 through page 59, line 21 and footnote 23 on page 57	6/14/12 #03883-12	#03884-12	See justification for Hearings Exhibits 28 and 84
71	DJW-2 Qwest Agreement No. 1 <i>[090538 Hearing Exhibit 71]</i> Entire Document-Excerpt Service Exhibit E1 (QCC POD 002660)			
72	DJW-3 Qwest Agreement No. 2 <i>[090538 Hearing Exhibit 72]</i> Entire Document -Excerpt Service Exhibit F1			