

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-13-0171-CFO-TP
ISSUED: April 25, 2013

ORDER GRANTING TW TELECOM OF FLORIDA, L.P.'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 07601-12 AND 01333-13 (X-REF DN 05454-12))

On November 9, 2012 and March 15, 2013, pursuant to Rule 25-22.006, Florida Administrative Code, tw telecom (TWTC) filed requests for confidential classification (Requests) of certain materials produced by TWTC in connection with prefiled rebuttal testimony and exhibits of Confidential Exhibit RDJ-1.¹ TWTC asserts that the confidential information in the documents is intended to be proprietary, is treated as proprietary, and has not been publicly disclosed. TWTC 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:

¹ TWTC filed a revised RDJ-1, with corrected information.

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- “Trade Secrets.”
- “Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.” *Id* at (a) and (e).

TWTC contends that the information, described with specific justification in Attachment A, “is intended to be, and is treated as, confidential by TWTC and . . . has not been otherwise publicly disclosed.” The information is generally described as information regarding purchases and negotiations of unregulated services. TWTC argues that disclosure of the information would have “detrimental impacts on TWTC and its business operations.” 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. 07601-12 and 01333-13 (x-ref 05454-12) 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 TWTC’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 tw telecom’s Request for Confidential Classification of Document Nos. 07601-12 and 01333-13 (x-ref 05454-12) as detailed in Attachment A, is granted. It is further

ORDERED that the information in Document Nos. 07601-12 and 01333-13 (x-ref 05454-12) 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 TWTC 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
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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

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appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

ATTACHMENT A

Location & Page	Lines	Description	Reason
Jones Rebuttal, page 3	Figures in line 13 and line 16	AT&T spend, commitment duration, percentage of total spend for switched access	The subject information reflects contractual data for unregulated services sold by TWTC and also therefore relates to the competitive interests of TWTC. Disclosure could harm TWTC's market position for unregulated services as customers and competitors could use the subject information to their advantage in the market for such services. Further the amounts and types of services purchased constitute "customer proprietary network information" pursuant to 47 USC 222 and therefore must be kept confidential under federal law.
Jones Rebuttal, page 8	Figure on line 17	Percentage of Qwest spend	Same as above
Jones Rebuttal, Page 10	Lines 3-7	Various aspects of Qwest contracts with TWTC	Same as above

Location & Page	Columns & Rows	Description	Reason
<p>Prefiled Exhibit Revised RDJ-1 (Hearing Exhibit No. 81)</p>	<p>All columns and all rows after the first row containing the following headings: "Year," "Qwest Total Spend," "AT&T Total Spend," "AT&T Spend in Satisfaction of Contract" "Required Spend pursuant to AT&T contract," Qwest Spend as Percentage of AT&T Spend," Qwest Spend as a percentage of AT&T Contract Requirement" and 7 rows after "Explanation of Corrections/ Revised Information in italics" and "Notes:" headings.</p>	<p>Dollars of unregulated services purchased from TWTC by AT&T and Qwest and relative percentages, including additional data necessary to correct prior error. Notes also include comparisons of information from original exhibits which is also deemed confidential by TWTC as set forth in the November 2012 request for confidentiality.</p>	<p>The subject information reflects contractual data for unregulated services sold by TWTC and also therefore relates to the competitive interests of TWTC. Disclosure could harm TWTC's market position for unregulated services as customers and competitors could use the subject information to their advantage in the market for such services. Further the amounts and types of services purchased constitute "customer proprietary network information" pursuant to 47 USC 222 and therefore must be kept confidential under federal law.</p>