

Dorothy Menasco

From: WOODS, VICKIE (Legal) [vf1979@att.com]
Sent: Friday, January 29, 2010 4:09 PM
To: Filings@psc.state.fl.us
Subject: 090538-TP AT&T Inc., AT&T Corp., and AT&T Communications of the Southern States, LLC's Notice of Non-Party Objection to Subpoena Duces Tecum
Attachments: Document.pdf

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B. Docket No. 090538-TP: Complaint of QWEST COMMUNICATIONS COMPANY, LLC, Against MCIMETRO ACCESS TRANSMISSION SERVICES, LLC (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, For unlawful

discrimination.

C. BellSouth Telecommunications, Inc. d/b/a AT&T Florida

on behalf of Manuel A. Gurdian

D. 7 pages total (includes letter, pleading and certificate of service)

E. AT&T Inc., AT&T Corp., and AT&T Communications of the Southern States, LLC's Notice of Non-Party Objection to Subpoena Duces Tecum

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January 29, 2010

Ms. Ann Cole
Office of the Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Docket No. 090538-TP: Complaint of QWEST COMMUNICATIONS COMPANY, LLC, Against MCIMETRO ACCESS TRANSMISSION SERVICES, LLC (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, For unlawful discrimination.

Dear Ms. Cole:

Enclosed is AT&T Inc.¹, AT&T Corp., and AT&T Communications of the Southern States, LLC's Notice of Non-Party's Objection to Subpoena Duces Tecum, which we ask that you file in the captioned docket.

Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

Manuel A. Gurdian

cc: All parties of record
Gregory R. Follensbee
Jerry D. Hendrix
E. Earl Edenfield, Jr.

¹ AT&T Inc. and AT&T Corp. make a special appearance in this docket for the limited purpose of contesting the Commission's jurisdiction to issue a Subpoena requiring their response.

CERTIFICATE OF SERVICE
Docket No. 090538-TP

I HEREBY CERTIFY that a true and correct copy was served via
Electronic Mail and First Class U. S. Mail this 29th day of January, 2010 to the
following:

Theresa Tan
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Manuel A. Gurdian

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Complaint of QWEST COMMUNICATIONS) Docket No. 090538-TP
COMPANY, LLC, Against MCIMETRO ACCESS)
TRANSMISSION SERVICES, LLC (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)
For unlawful discrimination.)
_____) Filed: January 29, 2010

NOTICE OF NON-PARTY'S OBJECTION TO SUBPOENA DUCES TECUM

Non-parties, AT&T Inc., via special appearance¹, AT&T Corp., via special appearance, and AT&T Communications of the Southern States, LLC pursuant to Rule 1.351(c) of the Florida Rules of Civil Procedure object to the production of documents set forth in Qwest Communications Company, LLC's ("Qwest") Subpoena Duces Tecum Without Deposition ("Subpoena"). In further support of their Objection, AT&T Inc., AT&T Corp. and AT&T Communications of the Southern States, LLC state as follows:

1. On or about January 15, 2010, Qwest served a Subpoena upon the Registered Agent for AT&T Corp. and AT&T Communications of the Southern States, LLC.
2. The Subpoena requests that AT&T Inc., AT&T Corp., and AT&T Communications of the Southern States, LLC produce the following by January 29, 2010:
 1. Produce copies of each and every agreement, whether or not still in effect, entered into since January 1, 1998 between AT&T Inc., AT&T Corp., AT&T Communications of the Southern States, LLC, or any affiliate, subsidiary or predecessor-in-interest of those entities (collectively, "AT&T") and any competitive local exchange carrier ("CLEC") relating to going forward rates, terms

¹ AT&T Inc. and AT&T Corp. make a special appearance in this docket for the limited purpose of contesting the Commission's jurisdiction to issue a Subpoena requiring their response.

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or conditions (as of the date of the agreement) for the provision (by the CLEC) of intrastate switched access services to AT&T. These agreements include, but are not necessarily limited to, settlement agreements and so-called "switched access service agreements."

2. For each agreement identified in response to this Subpoena, produce documents identifying the date on which the agreement was terminated. To clarify, QCC seeks the date AT&T stopped receiving the rates, terms and conditions under the agreement, not the date on which the original term of the agreement may have expired.

3. AT&T Inc. objects to the Commission's personal jurisdiction to issue a Subpoena requiring it to produce the above documents. The Commission does not have jurisdiction over AT&T, Inc. as it does not do business in the State of Florida and is not registered as a telecommunications company or an intrastate interexchange telecommunications company with the Commission. Moreover, there was insufficient process and service of process.²

4. AT&T Corp. objects to the Commission's personal jurisdiction to issue a Subpoena requiring it to produce the above documents. The Commission does not have jurisdiction over AT&T Corp. as it is not registered as a telecommunications company or an intrastate interexchange telecommunications company with the Commission.

5. AT&T Inc.³, AT&T Corp. and AT&T Communications of the Southern States, LLC further object for the following reasons:

- a. The time to respond to the Subpoena is grossly inadequate to compile even a small percentage of what is requested by the Subpoena;

² To the undersigned attorney's knowledge, Qwest has not attempted any form of service upon AT&T Inc. To the extent, Qwest may suggest that service upon AT&T Corp. and AT&T Communications of the Southern States, LLC's registered agent, CT Corporation System, constitutes service upon AT&T Inc., AT&T Inc. objects and asserts these two issues to preclude any argument that same have been waived.

³ In the unlikely event that the Commission does not sustain AT&T Inc. and AT&T Corp.'s personal jurisdiction objection, AT&T Corp. and AT&T Inc. make the following objections to preclude any argument that same have been waived.

- b. The request is overbroad in time in that asks for documents for more than 12 year time period;
 - c. The request is overbroad in scope in that it requests documents not only for AT&T Inc., AT&T Corp., AT&T Communications of the Southern States, LLC but also for “any affiliate, subsidiary or predecessor-in-interest of those entities...”
 - d. The request is overbroad in that there are hundreds of agreements throughout the United States and Qwest fails to reasonably narrow the subset of CLECs that Qwest is searching for;
 - e. The request is overbroad in that it does not limit its request to documents involving CLECs doing business in Florida or to the provision of intrastate switched access services in Florida;
 - f. The requests are unduly burdensome, oppressive, unreasonable, and seek confidential and proprietary information.
 - g. The request asks for the production of documents outside of the “county of the residence of the custodian or other person in possession of the documents or things are located or where the custodian or person in possession usually conducts business.” Florida Rules of Civil Procedure Rule 1.351(c).
 - h. Qwest has failed to advance the reasonable costs of preparing copies of the documents requested. *See* Florida Rules of Civil Procedure 1.351(c).
6. Notwithstanding the above AT&T is in good-faith attempting to resolve

the above objections with Qwest.

WHEREFORE, non-parties, AT&T, Inc., via special appearance, AT&T Corp., via special appearance, and AT&T Communications of the Southern States, LLC, respectfully request that the Commission enter an order: A) sustaining non-parties, AT&T, Inc., AT&T Corp. and AT&T Communications of the Southern States, LLC’s Objection to the Subpoena or B) to the extent the Commission does not sustain the above

objections⁴, limiting the documents required to be produced to a reasonable time and scope, protecting any confidential and proprietary documents from disclosure, requiring advancement of the reasonable cost of producing the documents, and continuing the due date when non-parties are required to produce the documents for a reasonable period of time to allow production of those limited documents.

Respectfully submitted this 29th day of January, 2010.

AT&T INC., AT&T CORP., AT&T
COMMUNICATIONS OF THE SOUTHERN
STATES, LLC



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⁴ In the unlikely event that the Commission does not sustain AT&T Inc. and AT&T Corp.'s personal jurisdiction objection, AT&T Corp. and AT&T Inc. join in the following, in order to preclude any argument that same has been waived.