

Marguerite McLean

090538-TP

From: Scobie, Teresa A (TERRY) [terry.scobie@verizon.com]
Sent: Tuesday, February 02, 2010 11:22 AM
To: Filings@psc.state.fl.us
Cc: Adam Sherr; Alex Duarte; Carolyn Ridley; David Christian; De O'Roark; Demetria Clark; Frank App; Greg Diamond; Jeff Wirtzfeld; John Ivanuska; Ken Culpepper; Marsha Rule; R. CUrier; Severy, Richard; Steven Denman
Subject: Docket No. 090538-TP - Verizon Business Services' Opposition to Subpoena Duces Tecum
Attachments: 090538 VZ Business Opp to Subpoena 2-2-10.pdf



The attached is submitted for filing in Docket No. 090538-TP on behalf of MCI Communications Services, Inc. d/b/a Verizon Business Services by

Dulaney L. O'Roark III
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The attached document consists of a total of 6 pages - cover letter (1 page), Petition (3 pages) and Certificate of Service (2 pages).

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February 2, 2010 – **VIA ELECTRONIC MAIL**

Ann Cole, Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 090538-TP
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.

Dear Ms. Cole:

Enclosed for filing in the above matter is MCI Communications Services, Inc. d/b/a
Verizon Business Services' Petition Objecting to Subpoena Duces Tecum. Service has
been made as indicated on the Certificate of Service. If there are any questions
regarding this filing, please contact me at (770) 284-3620.

Sincerely,

s/ Dulaney L. O'Roark III

Dulaney L. O'Roark III

tas

Enclosures

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FPSC-COMMUNICATIONS

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Qwest Communications Company,) Docket No. 090538-TP
LLC against MCImetro Access Transmission Services) Filed: February 2, 2010
(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.)
_____)

**PETITION OF NON-PARTY MCI COMMUNICATIONS SERVICES, INC.
D/B/A VERIZON BUSINESS SERVICES OBJECTING TO
SUBPOENA DUCES TECUM**

MCI Communications Services, Inc. d/b/a Verizon Business Services ("Verizon Business") hereby petitions the Commission, pursuant to sections 350.123 and 120.569 (2)(k)(1), Florida Statutes, to invalidate the Subpoena Duces Tecum Without Deposition ("Subpoena") obtained by Qwest on or about January 21, 2010. In support of its petition, Verizon states as follows:

1. Verizon Business is not a party to the above-referenced proceeding.
2. Qwest served a Subpoena upon the Registered Agent for Verizon Business, which was received on or about January 28, 2010.
3. The subpoena requests that Verizon Business produce the following by February 4, 2010:
 1. [C]opies of each and every agreement, whether or not still in effect, entered into since January 1, 1998 between MCI Communications Services, Inc., MCI, Inc., MCI Communications Corp., Verizon Business Services, or any affiliate, subsidiary or predecessor-in-interest of those entities (collectively, "MCI") and any competitive local exchange carrier ("CLEC") relating to going-forward rates, terms or conditions (as of the date of the agreement) for the

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provision (by the CLEC) of intrastate switched access services to MCI. These agreements include, but are not necessarily limited to, settlement agreements and so-called "switched access 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 MCI stopped receiving the rates, terms and conditions under the agreement, not the date on which the original term of the agreement may have expired.
-
4. Verizon Business objects to the Subpoena for the following reasons:
 - a. The request is overbroad and unreasonable in that it does not limit its request to documents relating to the provision of intrastate switched access services in Florida;
 - b. The request is overbroad in time in that it asks for documents for more than a 12-year period of time, which is not reasonably related to the time period that is likely relevant to the Commission's consideration of the pending complaint;
 - c. The request is overbroad in scope in that it seeks agreements entered into by "MCI, Inc." and "MCI Communications Corp.," neither of which entity was authorized as an interexchange carrier, and neither of which provided services as an interexchange carrier, in Florida;
 - d. The request is overbroad in scope in that it requests documents for "any affiliate, subsidiary or predecessor-in-interest of" the named entities, over the 12-year period of time;
 - e. The request is unduly burdensome, oppressive and unreasonable, because it seeks documents that contain confidential and proprietary information; and

- f. The time to respond to the Subpoena is insufficient, in part because confidentiality provisions contained in such agreements often require notice to the contracting party and an opportunity to raise any objection before any documents are produced.

5. Notwithstanding the foregoing, Verizon Business will in good faith attempt to resolve its objections with Qwest.

Wherefore, Verizon Business respectfully requests that the Prehearing Officer enter an order granting its petition and sustaining its objections to the Subpoena. To the extent the Prehearing Officer does not invalidate the Subpoena, Verizon Business requests that the Prehearing Officer limit the documents required to be produced to a reasonable time and scope, protect any confidential and proprietary documents from disclosure, and extend 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 on February 2, 2010.

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Attorney for MCI Communications Services,
Inc. d/b/a Verizon Business Services

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing were sent via electronic mail on February 2, 2010 to the following:

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s/ Dulaney L. O'Roark III