

**Marguerite McLean**

090538-TP

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**Sent:** Tuesday, February 09, 2010 4:07 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Adams, Gene; Denman, Steve; Diamond, Gregory; Duarte, Alex; Feil, Matthew; Gurdian, Manuel; Beth Keating; Klein, Andrew; Kopta, Gregory; Nelson, Douglas; O'Roarke, Dulaney; Rule, Marsha; Sherr, Adam; Lee Eng Tan; Topp, Jason; Zoracki, Allen; bret.lawson@sprint.com  
**Subject:** E-filing - Sprint's Objection to Subpoena Duces Tecum  
**Attachments:** Response to Sprint's Objection to Subpoena DT.pdf

The document was not attached to the filing submitted a few minutes ago.

**From:** Kelley, Gerri  
**Sent:** Tuesday, February 09, 2010 2:02 PM  
**To:** 'filings@psc.state.fl.us'  
**Cc:** 'Adams, Gene'; Denman, Steve; 'Diamond, Gregory'; 'Duarte, Alex'; 'Feil, Matthew'; 'Gurdian, Manuel'; 'Keating, Beth'; 'Klein, Andrew'; 'Kopta, Gregory'; 'Nelson, Douglas'; 'O'Roarke, Dulaney'; 'Rule, Marsha'; 'Sherr, Adam'; 'Tan, Theresa'; 'Topp, Jason'; 'Zoracki, Allen'; 'bret.lawson@sprint.com'  
**Subject:** E-filing - Sprint's Objection to Subpoena Duces Tecum

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**Docket No.:** 090538-TP  
**Filed on behalf of:** Qwest Communications Company, LLC  
**Total number of pages:** 6  
**Brief description:** Response to Sprint's Objection of Non-Party to Subpoena Duces Tecum

DOCUMENT NUMBER-DATE

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2/9/2010

**BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF FLORIDA**

In re: 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.

Docket No. 090538-TP

Filed: February 9, 2010

**RESPONSE TO SPRINT'S OBJECTION OF NON-PARTY  
TO SUBPOENA DUCES TECUM**

Pursuant to Rules 1.351(c) and 1.351(d), Florida Rules of Civil Procedure, Qwest Communications Company, LLC ("Qwest"), by and through its counsel, herewith files its Response to Sprint's Objection of Non-Party to Subpoena Duces Tecum filed on February 3, 2010 by Sprint Communications Company Limited partnership and SprintCom, Inc. (collectively, "Sprint"). Pursuant to an agreement with Sprint, discussed in detail *infra*, Qwest respectfully requests that the Florida Public Service Commission ("Commission") hold the relief requested in Sprint's filed objections to the subpoena duces tecum (the "Subpoena") in abeyance while the companies confer regarding any differences in position regarding the Subpoena; that Qwest need not respond to the substance of Sprint's objections at this time; and that the Presiding Officer (or the Commission) need not rule on Sprint's objections unless and until Qwest and Sprint reach an impasse. In support of this Response, Qwest states as follows:

1. On or about January 26, 2010, Qwest served the Subpoena on the registered agent for Sprint in Florida. The Subpoena requested production of certain agreements and other documents needed by Qwest for the prosecution of the instant Complaint.

2. On February 3, 2010, Sprint filed its Objection of Non-Party to Subpoena Duces Tecum, raising a number of substantive objections to the Commission's personal jurisdiction and to the Subpoena. In its prayer for relief, Sprint requested that the Commission enter an order sustaining its objections or, at a minimum, limiting the scope of the Subpoena and other matters *inter alia* related to confidentiality protection and the date for production of the requested documents.

3. In Paragraph 8 of its Objection, Sprint stated: "Sprint has been in contact with Qwest counsel regarding the subpoena and will continue to work with Qwest counsel to reach reasonable terms on which a response to the Subpoena may be provided by mutual agreement." Pursuant to those discussions between in-house counsel – Mr. Bret Lawson for Sprint and Mr. Adam Sherr for Qwest – the two companies reached the following agreement: that the Presiding Officer (or Commission) hold the relief requested in Sprint's filed objections to the Subpoena in abeyance while the companies confer regarding any differences in position regarding the Subpoena; that the matter of Sprint's objections to the Subpoena should be held in abeyance; that Qwest need not respond to the substance of Sprint's objections at this time; and that the Presiding Officer (or the Commission) need not rule on Sprint's objections unless and until Qwest and Sprint reach an impasse.

4. Qwest has been authorized by counsel for Sprint to represent in this Response that Sprint agrees that the matter of its objections to the Subpoena should be held in abeyance, that Qwest need not respond to the substance of Sprint's objections at this time, and that the Presiding Officer (or the Commission) need not rule on Sprint's objections unless and until Qwest and Sprint reach an impasse.

5. Qwest also suggests that, in its order on the Objection and this Response, the Presiding Officer (or Commission) find that in the event that Qwest and Sprint do reach an impasse over the production of the requested documents, they will so advise the Commission in a written notice and Qwest will file its substantive response seven (7) days after the filing of the notice of reaching an impasse.

6. No prejudice to any party to this complaint will result from the disposition of the Notice and this Response in the manner agreed to between Qwest and Sprint.

WHEREFORE, Qwest respectfully requests that the Commission enter an order finding: that the Presiding Officer (or Commission) hold the relief requested in Sprint's filed objections to the Subpoena in abeyance while the companies confer regarding any differences in position and regarding the Subpoena; that the matter of Sprint's objections to the Subpoena should be held in abeyance; that Qwest need not respond to the substance of Sprint's objections at this time; and that the Presiding Officer (or the Commission) need not rule on Sprint's objections unless and until Qwest and Sprint reach an impasse. The order should also provide that, in the event that Qwest and Sprint do reach an impasse over the production of the requested documents, Qwest and Sprint so advise the Commission in a written notice and Qwest will file its substantive response seven (7) days after the filing of the notice of reaching an impasse.

DATED this 9th day of February 2010.

s/ Steven H. Denman

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the forgoing **RESPONSE TO SPRINT'S OBJECTION OF NON-PARTY TO SUBPOENA DUCES TECUM** has been furnished by U.S. Mail and email to the following this 9<sup>th</sup> day of February 2010:

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*/s/ Geraldine Kelley*