

Dorothy Menasco

090538-TP

From: beth.keating@akerman.com
Sent: Wednesday, April 21, 2010 3:40 PM
To: Filings@psc.state.fl.us
Subject: Docket No. 090538-TP
Attachments: 20100421153325442.pdf

Attached for filing, please find the Joint CLECs' Notice of Supplemental Authority. If you have any questions, please do not hesitate to contact me.

Sincerely,
 Beth Keating
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A. Person Responsible for this Filing:
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B. The docket number and title of docket:
 Docket No. 090538-TP -
 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 Telecom, 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.

C. Filed on behalf of: Joint CLECs (Broadwing Communications, LLC, XO Communications Services, Inc.; tw telecom of florida, l.p.;

Granite Telecommunications, LLC; and Cox Florida Telecom, L.P.)

D. Number of Pages in Document: 6

E: Brief Title: Joint CLECs' Notice of Supplemental Authority



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April 21, 2010

ELECTRONIC FILING

Ms. 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 connection with the provision of intrastate switched access services in alleged of Sections 364.08 and 364.10, F.S.

Dear Ms. Cole:

Attached for filing in the above-referenced Docket, please find the Joint CLECs' Notice of Supplemental Authority. Service has been made in accordance with the attached Certificate of Service.

Thank you for your assistance with this filing. Please do not hesitate to contact me if you

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Ms. Ann Cole
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have any questions whatsoever.

Sincerely,



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Enclosures

cc: Parties of Record

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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)
connection with the provision of intrastate)
switched access services in alleged of)
Sections 364.08 and 364.10, F.S.)
_____)

Docket No. 090538-TP

Filed: April 21, 2010

JOINT CLECS' NOTICE OF SUPPLEMENTAL AUTHORITY

Broadwing Communications, LLC, ("Broadwing"), XO Communications Services, Inc.; tw telecom of florida, l.p.; Cox Florida Telcom, L.P., and Granite Telecommunications, LLC (collectively, "Joint CLECs"), by and through its undersigned counsel, respectfully notifies the Florida Public Service Commission ("Commission") of the full text of Section 40-6-119, Colorado Revised Statutes (attached as "Exhibit A").

On April 20, 2010, Qwest Communications Company, LLC's ("Qwest") filed a Notice of Supplemental Authority for an Interim Order of an Administrative Law Judge ("ALJ") in Colorado. The Interim Order addressed, among other things, reparations. Joint CLECs refer this Commission to the attached section 40-6-119, Colorado Revised Statutes, which is cited by the Colorado ALJ and which specifically empowers the Colorado Public Utilities Commission to award reparations under certain conditions. This provision of Colorado law is provided in further support of Joint CLECs' position in the Florida proceeding.

{TL223368;1}

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Respectfully submitted:

/s/ Marsha E. Rule

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Attorneys for XO Communications Services Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the forgoing has been furnished by email to the following this 21st day of April, 2010:

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Beth Keating

EXHIBIT A
Section 40-6-119, Colorado Revised Statutes

→ § 40-6-119. Excess charges--reparation--actions--limitation

(1) When complaint has been made to the commission concerning any rate, fare, toll, rental, or charge for any product or commodity furnished or service performed by any public utility and the commission has found, after investigation, that the public utility has charged an excessive or discriminatory amount for such product, commodity, or service, the commission may order that the public utility make due reparation to the complainant therefor, with interest from the date of collection, provided no discrimination will result from such reparation.

(2) If the public utility does not comply with the order for the payment of reparation within the specified time in such order, suit may be instituted in any court of competent jurisdiction to recover the same. All complaints concerning excessive or discriminatory charges shall be filed with the commission within two years from the time the cause of action accrues, and the petition for the enforcement of the order shall be filed in the court within one year from the date of the order of the commission. The remedy provided in this section shall be cumulative and in addition to any other remedy in articles 1 to 7 of this title provided in case of failure of a public utility to obey the order or decision of the commission.

HISTORICAL AND STATUTORY NOTES

2004 Main Volume

Derivation:

Laws 1913, S.B.1, § 56.

Comp.Laws 1921, § 2965.

C.S.A.1935, c. 137, § 56.

C.R.S.1953, § 115-6-19.

C.R.S.1963, § 115-6-19.