

Dorothy Menasco

From: Rehwinkel, Cecilia (Cissy) Galloway [CRehwinkel@gunster.com]
Sent: Friday, July 08, 2011 3:44 PM
To: Filings@psc.state.fl.us
Cc: Lee Eng Tan; 'aklein@kleinlawpllc.com'; 'adam.sherr@qwest.com'; 'de.oroark@verizon.com'; 'janewhang@dwt.com'; 'Chris.bunce@birch.com'; 'tony.mastando@corpearthlink.com'; 'Edward.Krachmer@windstream.com'; 'Eric.branfman@bingham.com'; 'rcurrier@granitenet.com'; Feil, Matthew; 'Carolyn.Ridley@twtelecom.com'; 'John.ivanuska@xo.com'; 'marsha@reuphlaw.com'; David Christian; 'Richard.brown@accesspointinc.com'; 'John.greive@lightyear.net'; 'mike@navtel.com'; 'John.messenger@paetec.com'; 'Philip.macres@bingham.com'; 'Greg.diamond@level3.com'; 'dbailey@bullseyetelecom.com'; 'azoracki@kleinlawpllc.com'; 'doug.hsiao@qwest.com'; 'michael.cooke@ruden.com'; Brenda Merritt; 'alex.duarte@qwest.com'; 'jason.topp@qwest.com'; 'bettye.j.willis@windstream.com'
Subject: PSC Filing - Docket No. 090538-TP
Attachments: 090538 OralArgStay.pdf

The attached is an electronic filing for the docket referenced below. If you have any questions, please contact Matt Feil at the number below. Thank you.

Person Responsible for Filing:

Matthew Feil
 Gunster Law Firm
 215 South Monroe Street, Suite 601
 Tallahassee, FL 32301
 Direct: 850-521-1708
 Main: 850-521-1980
mfeil@gunster.com

Docket Name and Number: Docket No. 090538-TP – 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.; Lightyear Network Solutions, LLC; 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.

Filed on Behalf of: Joint CLECs (see signature page of pleading)

Total Number of Pages: 8

Description of Documents: Joint CLEC's Request for Oral Argument on Joint Motion to Stay Proceeding

7/8/2011

DOCUMENT NUMBER-DATE

04707 JUL-8 =

FPSC-COMMISSION CLERK



GUNSTER

FLORIDA'S LAW FIRM FOR BUSINESS

Cecilia C. Galloway
Governmental Affairs
215 S. Monroe Street, Suite 601
Tallahassee, FL 32301
Main 850-521-1980 Direct 850-521-1726

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Writer's Direct Dial Number: 850-521-1708
Writer's E-Mail Address: MFeil@gunster.com

July 8, 2011

VIA ELECTRONIC FILING

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Re: Docket No. 090538-TP - 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.; Lightyear Network Solutions, LLC; 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.

Dear Ms. Cole:

Please find attached the Joint Movants' Request for Oral Argument on Joint Motion to Stay Proceeding for filing in the above-referenced docket. (The Joint Movants are named on the first page of the pleading.)

Your assistance in this matter is greatly appreciated. Should you have any questions, please do not hesitate to call.

Sincerely,

Matthew J. Feil

MJF/ccg

cc: Certificate of Service

DOCUMENT NUMBER - DATE

04707 JUL -8 =

FPSC-COMMISSION CLERK

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; Cox Florida Telcom, L.P.; Broadwing Communications, LLC; Access Point, Inc.; Birch Communications, Inc.; Budget Prepay, Inc.; BullsEye Telecom, Inc.; DeltaCom, Inc.; Ernest Communications, Inc.; Flatel, Inc.; Lightyear Network Solutions, LLC; 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

Filed: July 8, 2011

**REQUEST FOR ORAL ARGUMENT
ON JOINT MOTION TO STAY PROCEEDING**

Pursuant to Rule 25-22.022, Florida Administrative Code, the undersigned carriers¹ (collectively, "Joint Movants") hereby request the Florida Public Service Commission to grant oral argument on their Joint Motion to Stay Proceeding ("Motion"), filed contemporaneously with this request in connection with their Joint Motion to Dismiss Qwest's Amended Complaint for Lack of Subject Matter Jurisdiction.

Chapter 2011-36, Laws of Florida, officially known as the Regulatory Reform Act, became effective on July 1, 2011, thereby repealing nearly 60% and amending over

¹ Access Point, Inc.; Birch Communications, Inc.; Broadwing Communications, LLC; BullsEye Telecom, Inc.; DeltaCom, Inc.; Granite Telecommunications, LLC; Lightyear Network Solutions, LLC; MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services; Navigator Telecommunications, LLC; PAETEC Communications, Inc.; STS Telecom, LLC; tw telecom of florida, l.p.; US LEC of Florida, LLC d/b/a PaeTec Business Services; XO Communications Services, Inc.; and Windstream NuVox, Inc.

25% of the sections in Chapter 364, Florida Statutes.² The Legislature clearly intended the Regulatory Reform Act to effect a sweeping revision to Chapter 364 and a dramatic curtailment of the Commission's telecommunications jurisdiction.

In this case, as explained in the Motion, the Regulatory Reform Act (a) repeals Sections 364.08(1) and 364.10(1), removing the Commission's jurisdiction over claims of rate discrimination raised in Qwest's Amended Complaint ("Complaint"), (b) revises Section 364.04 to expressly permit carriers to enter into contracts with rates that differ from those in their published schedules (Qwest's central allegation), and (c) includes no savings clause that would permit the Commission to consider any pending claims. Consequently, the Commission's jurisdiction to entertain and authority over Qwest's Complaint has been divested and, therefore, Qwest's Complaint "fall[s] with the law."

Oral argument would aid the Commissioners in understanding the following: the effect of the Regulatory Reform Act on the claims presented in Qwest's Complaint; its lack of jurisdiction and authority to hear and address such claims; and its obligation to stay further process or activity in this proceeding until these issues of jurisdiction and authority are resolved.

Accordingly, oral argument would assist the Commission's deliberations. The Joint Movants request 15 minutes per side for oral argument with time permitted for rebuttal by Joint Movants.

WHEREFORE, Joint Movants respectfully request the Commission to grant oral argument on the Joint Motion to Stay Proceeding.

² Of the 65 sections in Chapter 364, Florida Statutes, 37 were repealed and 17 were amended. Only 11 sections were neither amended nor repealed.

Dated this 8th day of July, 2011.

Respectfully submitted,



Matthew J. Feil
Gunster Yoakley & Stewart, P.A.
215 South Monroe Street, Ste 601
Tallahassee, FL 32301
(850)521-1708

Counsel for Birch Communications, Inc., DeltaCom, Inc., tw telecom of florida, l.p., XO Communications Services, Inc., Windstream NuVox, Inc. and STS Telecom, LLC

/s/ Andrew M. Klein

Andrew M. Klein*
Allen C. Zoracki*
Klein Law Group PLLC
1250 Connecticut Ave. NW, Suite 200
Washington, DC 20036
(202) 289-6955, Fax: (202) 289-6997
AKlein@KleinLawPLLC.com
AZoracki@KleinLawPLLC.com

Counsel for BullsEye Telecom, Inc. and Granite Telecommunications, LLC

/s/ Dulaney L. O'Roark, III

Dulaney L. O'Roark, III
P.O. Box 110, MC FLTC0007
Tampa, FL 33601-0110
(678)259-1449, Fax: (678)259-1589
Email: de.oroark@verizon.com

Counsel for MCI metro Access Transmission Services LLC d/b/a Verizon Access Transmission Services

/s/ Eric J. Branfman

Eric J. Branfman, Esq.*
Philip J. Macres, Esq., Fla. Bar No. 137900
Bingham McCutchen LLP
2020 K Street, NW
Washington, DC 20006-1806
Tel.: (202) 373-6000, Fax: (202) 373-6001
E-mail: eric.branfman@bingham.com
E-mail: philip.macres@bingham.com

Counsel for Access Point, Inc., Lightyear Network Solutions, LLC, Navigator Telecommunications, LLC, PAETEC Communications, Inc., and US LEC of Florida, LLC

* Designated as qualified representatives in Docket No. 100008-OT.

/s/ Edward B. Krachmer

Edward B. Krachmer
Windstream Communications, Inc.
4001 Rodney Parham Road
MS 1170-B1F03-53A
Little Rock, AR 72212
(501) 748-5777
[Not admitted in Florida]

Counsel for Windstream NuVox, Inc.

/s/ Marsha E. Rule

Marsha E. Rule
Rutledge, Ecenia & Purnell, P.A.
P.O. Box 551
Tallahassee, FL 32302-0551
(850) 681-6788, Fax: (850) 681-6515
marsha@reuphlaw.com

Gregory Diamond, Esq.
Broadwing Communications, LLC
1025 Eldorado Blvd.
Broomfield, CO 80021
(720) 888-3148, Fax: (720) 888-5134
greg.diamond@level3.com

Attorneys for Broadwing Communications, LLC

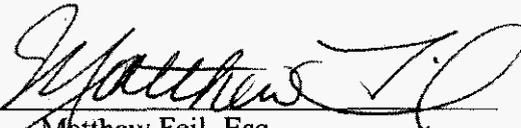
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served upon the following by email, and/or U.S. Mail this 8th day of July, 2011.

Lee Eng Tan Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399-0850 ltan@psc.state.fl.us	Eric J. Branfman/Philip J. Macres Bingham Law Firm 2020 K Street, NW Washington, DC 20006 eric.branfman@bingham.com Philip.macres@bingham.com
Mr. Chris Bunce Birch Communications, Inc. 2300 Main Street, Suite 600 Kansas City, MO 64108-2415 Chris.bunce@birch.com	Mr. Greg Diamond Broadwing Communications, Inc. c/o Level 3 Communications 1025 Eldorado Boulevard Broomfield, CO 80021-8869 Greg.Diamond@level3.com
Budget PrePay, Inc. 1325 Barksdale Boulevard Suite 200 Bossier City, LA 71111-4600	Mr. David Bailey BullsEye Telecom, Inc. 25925 Telegraph Road, Suite 210 Southfield, MI 48033-2527 dbailey@bullseyetelecom.com
Jane Whang Davis Wright Tremaine LLP 505 Montgomery Street, Suite 800 San Francisco, CA 94111 janewhang@dwt.com	D. Anthony Mastando DeltaCom 7037 Old Madison Pike Huntsville, AL 35806 tony.mastando@corp.earthlink.com
Ernest Communications, Inc. 5275 Triangle Parkway, Suite 150 Norcross, GA 30092-6511	Flatel, Inc. Executive Center, Suite 100 2300 Palm Beach Lakes Blvd. West Palm Beach, FL 33409-3307
Granite Telecommunications, LLC 100 Newport Avenue Extension Quincy, MA 02171-1734 rcourier@granitenet.com	Andrew M. Klein/Allen C. Zoracki Klein Law Group 1250 Connecticut Ave. NW, Suite 200 Washington, DC 20036 AKlein@kleinlawPLLC.com azoracki@kleinlawpllc.com

<p>John Greive Lightyear Network Solutions, LLC 1901 Eastpoint Parkway Louisville, KY 40223-4145 john.greive@lightyear.net</p>	<p>Michael McAlister Navigator Telecommunications, LLC P.O. Box 13860 North Little Rock, AR 72113-0860 mike@navtel.com</p>
<p>John B. Messenger PaeTec Communications, Inc. One PaeTec Plaza 600 Willowbrook Office Park Fairport, NY 14450-4233 john.messenger@paetec.com</p>	<p>Richard Brown Access Point, Inc. 1100 Crescent Green, Suite 109 Cary, NC 27511 Richard.brown@accesspointinc.com</p>
<p>Mr. Douglas Hsiao Qwest Communications Company, LLC 1801 California Street, 10th Floor Denver, CO 80202-2632 doug.hsiao@qwest.com</p>	<p>Alex M. Duarte Qwest Communications Company, LLC 421 SW Oak Street, Suite 810 Portland, OR 97204 Alex.Duarte@qwest.com</p>
<p>Adam L. Sherr Qwest Communications Company, LLC 1600 7th Avenue, Room 1506 Seattle, WA 98191 Adam.Sherr@qwest.com</p>	<p>Jason D. Topp Qwest Communications, LLC 200 South Fifth Street, Room 2200 Minneapolis, MN 55402 Jason.Topp@qwest.com</p>
<p>Michael G. Cooke Ruden Law Firm 215 South Monroe Street, Suite 815 Tallahassee, FL 32301 Michael.Cooke@Ruden.com</p>	<p>Marsha Rule Rutledge Law Firm Post Office Box 551 Tallahassee, FL 32302 marsha@reuphlaw.com</p>
<p>STS Telecom, LLC P.O. Box 822270 Pembroke Pines, FL 33082-2270</p>	<p>Ms. Carolyn Ridley tw telecom of florida l.p. 2078 Quail Run Drive Bowling Green, KY 42104 Carolyn.Ridley@twtelecom.com</p>
<p>Brenda Merritt Division of Regulatory Analysis Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399 bmerritt@psc.state.fl.us</p>	<p>Mr. David Christian Verizon Access Transmission Services 106 East College Avenue, Suite 710 Tallahassee, FL 32301-7721 david.christian@verizon.com</p>

Dulaney L. O'Roark III Verizon 5055 North Point Parkway Alpharetta, GA 30022 678-259-1657 (phone) 678-259-5326 (fax) de.oroark@verizon.com	Ed Krachmer Windstream NuVox, Inc. 4001 Rodney Parham Road MS: 1170-B1F03-53A Little Rock, AR 72212 Edward.Krachmer@windstream.com
Mr. John Ivanuska XO Communications Services, Inc. 10940 Parallel Parkway, Suite K - #353 Kansas City, KS 66109-4515 john.ivanuska@xo.com	James White Windstream NuVox, Inc. 4651 Salisbury Road, Suite 151 Jacksonville, FL 32256-6187 Bettye.j.willis@windstream.com

By: 
Matthew Feil, Esq.