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December 29, 2011

BY HAND DELIVERY

Ms. Ann Cole, Director
Commission Clerk and Administrative Services
Florida Public Service Commission
Tallahassee, FL 32399-0850
2540 Shumard Oak Boulevard

claim of confidentiality
 notice of intent
 request for confidentiality
 filed by OPC

For DN 09195-11, which is in locked storage. You must be authorized to view this DN.-CLK

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:

Birch Communications, Inc. f/k/a Access Integrated Networks, Inc. ("BCI/AIN") files the following documents in the above-referenced docket:

1. Confidential Attachment A: a sealed envelope marked "CONFIDENTIAL," containing BCI/AIN's First Supplemental CONFIDENTIAL Response to Qwest Interrogatory No. 9; and
2. Public Attachment B: a redacted version of the information found in Confidential Attachment A.

COM _____ BCI/AIN states that, pursuant to §364.183(1), Florida Statutes, the petitioner in this case,
APA _____ Qwest Communications Company, LLC ("Qwest"), has claimed that the contents of Attachment
ECR _____ A are confidential and proprietary business information of Qwest and should be kept confidential
GCL 4
RAD 2
SRC _____
ADM _____
OPC _____
CLK 1

DOCUMENT NUMBER
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Ms. Ann Cole, Director

December 29, 2011

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and exempt from public disclosure. A copy of this letter and Attachment B have been provided to parties in accordance with the attached certificate of service.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the copy to me. Thank you for your assistance with this filing and please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew J. Feil". The signature is written in a cursive, flowing style with a large, decorative flourish at the end.

Matthew J. Feil

MJF

Enclosure

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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; 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

CLAIM OF CONFIDENTIALITY

APPENDIX B

REDACTED VERSION

**December 29, 2011
Birch Communications, Inc.**

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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; 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

Dated: December 29, 2011

BIRCH COMMUNICATIONS, INC.'S FIRST SUPPLEMENT TO AND CONFIDENTIAL RESPONSE TO INTERROGATORY NO. 9 FROM QWEST COMMUNICATIONS COMPANY, LLC'S FIRST SET OF DATA REQUESTS

Birch Communications, Inc., f/k/a Access Integrated Networks, Inc. ("BCI/AIN")

hereby submits its first supplement to Interrogatory No. 9 to Qwest Communications Corporation, LLC's ("Qwest" or "QCC") First Set of Interrogatories dated October 21, 2011.

The original response was served December 2, 2011.

This First Supplement replaces the December 2, 2011, original answer to Interrogatory No. 9 in its entirety, except that the general objections and definitions for specific objections stated in the December 2, 2011, are incorporated herein by reference.

Interrogatory No. 9. At page 9 (affirmative defense 12) of your Answer to the Amended Complaint, you refer to Birch’s wholesale relationship with QCC, and state that the “pricing and terms of the wholesale services contract reflect QCC’s obligation to pay BCI’s Price List SWA rates.”

- a. Identify (by name and date) the wholesale services contract to which you refer.
- b. Identify the specific provisions you contend reflect “QCC’s obligation to pay BCI’s Price List SWA rates.”
- c. Does Birch contend that QCC waived the protection of Florida laws preventing rate discrimination? If so, identify the specific provisions you contend reflect such waiver.

BCI/AIN poses the specific objection that this interrogatory inappropriately requests a legal opinion, conclusion or argument.

[BEGIN CONFIDENTIAL INFORMATION] [REDACTED]

[REDACTED]

[END CONFIDENTIAL INFORMATION]

Answer provided by: Counsel (objection) and Stephen Hayes, CABS Billing & Margin Assurance Manager

Respectfully submitted this 29th day of
December, 2011

By:

A handwritten signature in black ink, appearing to read "Matthew Feil", written over a horizontal line.

Matthew Feil
Gunster, Yoakley & Stewart, P.A.
215 South Monroe St., Suite 601
Tallahassee, FL 32301
mfeil@gunster.com
(850) 521-1708

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 29th day of December, 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
Richard Brown Access Point, Inc. 1100 Crescent Green, Suite 109 Cary, NC 27511 Richard.brown@accesspointinc.com	Mr. David Bailey BullsEye Telecom, Inc. 25925 Telegraph Road, Suite 210 Southfield, MI 48033-2527 dbailey@bullseyetelecom.com
Adam C. Gold, P.A. 1501 Sunset Drive, 2 nd Floor Coral Gables, FL 33143 agold@acgoldlaw.com	Paula W. Foley One Communication – Earthlink 5 Wall Street Burlington, MA 01803 pfoley@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 rcurrier@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>Susan S. Masterton, Esq. CenturyLink QCC 315 S. Calhoun Street, Suite 500 Tallahassee, FL 32301 susan.masterton@centurylink.com</p>
<p>Adam L. Sherr Qwest Communications Company, LLC 1600 7th Avenue, Room 1506 Seattle, WA 98191 Adam.Sherr@centurylink.com</p>	<p>Marsha Rule Rutledge Law Firm Post Office Box 551 Tallahassee, FL 32302 marsha@reuphlaw.com</p>
<p>Ms. Kristin U. Shulman XO Communications 810 Jorie Blvd., Suite 200 Oak Brook, IL 60523 kris.shulman@xo.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>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</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>Alan C. Gold, P.A. 1501 Sunset Drive 2nd Floor Coral Gables, FL 33143 agold@acgoldlaw.com</p>	<p>Mr. David Christian Verizon Access Transmission Services 106 East College Avenue, Suite 710 Tallahassee, FL 32301-7721 david.christian@verizon.com</p>

Ed Krachmer
Windstream NuVox, Inc.
4001 Rodney Parham Road
MS: 1170-B1F03-53A
Little Rock, AR 72212
Edward.Krachmer@windstream.com

James White
Windstream NuVox, Inc.
4651 Salisbury Road, Suite 151
Jacksonville, FL 32256-6187
Bettye.j.willis@windstream.com

By: 
Matthew Feil, Esq.