

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; 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: June 14, 2012

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

For DN 0389612, which is in locked storage. You must be authorized to view this DN.-CLK

REQUEST FOR CONFIDENTIAL CLASSIFICATION (EASTON)

Qwest Communications Company, LLC d/b/a CenturyLink ("QCC") by and through its undersigned counsel and in accordance with Rule 25-22.006, Florida Administrative Code, hereby requests that the Florida Public Service Commission ("Commission") enter an order protecting from public disclosure the Exhibits and portions of the Direct Testimony and Exhibits of William R. Easton enumerated in Attachment "A" to this Request.¹ As grounds for this Request, QCC states:

1. On June 14, 2012, QCC submitted the direct testimony and exhibits of William R. Easton. Portions of Mr. Easton's Direct Testimony and Exhibits contain proprietary confidential business information which is the subject of this request.

2. Most of the information for which QCC seeks confidential classification is information pertaining to the CLEC Respondents in this case. Much of the information was obtained by

¹QCC is also submitting today separate Requests for Confidential Classification for the Direct Testimony and Exhibits of Dennis L. Weisman and the Direct Testimony and Exhibits of Derek Canfield.

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responses to subpoenas served on various IXCs and issued by the Commission in this case at QCC's request.² The IXCs provided this information to QCC under the terms of Non-disclosure Agreements (NDAs) between the IXCs and QCC and designated the information they provided as either "Confidential" or "Lawyers Only Confidential." The classification of information into these categories has no bearing on the status of the information as filed with the Commission. In accordance with section 364.183, F.S., and Rule 25-22.006, F.A.C., the information file with the Commission is either "public" or "confidential and exempt" from s. 119.07, F.S. As such, for the purposes of this Request and Attachment A, the term "confidential" encompasses both of these inter-party classifications.

3. Some of the information for which QCC seeks confidential classification is information that was provided to QCC by the respondent CLECs in their responses to discovery. The CLECs provided their responses under the terms of a Nondisclosure Agreement (NDA) entered among QCC and several Respondent CLECs and designated the information as either "Confidential" or "Lawyers Only Confidential" in accordance with the Agreement's terms. Again, these distinctions are relevant only as to how the information is handled by the parties, not to the classification of the information on file with the Commission.

4. Some of the information for which QCC claims confidential classification is QCC proprietary business information as defined in section 364.183, F.S.

5. Attachment A contains a list of the documents or portions of documents for which QCC claims confidential classification, as well as a description of the information and the justification for classifying the document as confidential under section 364.183, F.S.

6. Two redacted copies of the confidential information are provided with this Request, as required by Rule 25-22.006, F.A.C. Many of the documents are agreements between IXCs and

² See, Subpoenas Duces Tecum without Deposition issued by the Commission on January 21, 2010 to AT&T, Sprint and MCI.

CLECs which have been deemed confidential by those parties in their entirety. The redacted copies of these documents consist of single pages marked redacted that are placeholders for the confidential documents.

7. Under separate cover, QCC is also filing on this same day a single copy of the confidential information as required by Rule 25-22.006, F.A.C. The confidential information is highlighted in those documents where only a portion of the information is confidential. Those documents which are confidential in their entirety are printed on yellow paper in lieu of highlighting (which would be impractical for these documents). In addition, all of the documents which contain confidential information include a stamp marking them as Confidential (or, in some cases, "Lawyers Only Confidential" for the purposes of the exchange of information among the parties).

8. Section 364.183(3), F.S., provides:

(3) The term "proprietary confidential business information" means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public.

The term includes, but is not limited to:

- (a) Trade secrets.
- (b) Internal auditing controls and reports of internal auditors.
- (c) Security measures, systems, or procedures.
- (d) Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the company or its affiliates to contract for goods or services on favorable terms.
- (e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information.
- (f) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities.

9. The QCC information is proprietary confidential business information related to the competitive interests of QCC the disclosure of which would impair the competitive business of the QCC as contemplated in s. 364.183(3)(e). Further, the information, as prepared and produced by QCC, is trade secret information, as described in s. 364.183(3)(a). The information related to

the CLECs' respondents, which has been designated as confidential by the producing parties, would appear to fall under s. 364.183(d), which protects proprietary confidential business information in the form of contractual data and/or under s. 364.183(e), which protects competitively sensitive proprietary confidential business information. QCC is bound by the terms of the parties' NDA to protect the confidentiality of this information both in QCC's possession and in QCC's use of the information in this proceeding. Allowing parties to exchange proprietary confidential business information subject to protection under voluntarily executed NDAs facilitates the discovery process.

10. The information that is designated as QCC-produced information is intended to be, and is, treated as confidential by QCC and, to the undersigned counsels' knowledge, has not been otherwise publicly disclosed.

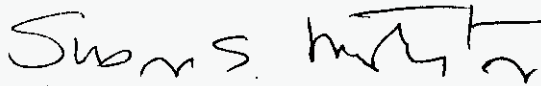
11. For the information that has been designated by the producing IXCs and CLECs as confidential, QCC can confirm that while that information has been in QCC's possession it has been treated as confidential and protected by QCC. However, QCC does not have personal knowledge of, and therefore cannot represent that, such information has been treated as confidential in the possession of the producing parties.

12. Because of the way the information was designated by the producing IXC or CLEC there are some inconsistencies in the information that has been requested to be protected for various CLECs. For most CLECs the existence of the agreement between the CLEC and a specific IXC, as well as the effective dates of the agreement, are public information, while the rates and terms of the agreement are confidential. However, a few CLECs have requested also to maintain confidentiality for the existence of the agreement with a particular IXC and/or the effective dates of the agreement, in addition to the rates and agreement terms. While QCC honors these CLECs' designations in this filing, QCC suggests that in the interests of administrative efficiency as this

case proceeds before the Commission it may make sense for similar information for the various CLECs to be treated similarly as it relates to the confidential designations of their information.

WHEREFORE, QCC respectfully requests that the Commission enter an order protecting the documents enumerated in Attachment A as proprietary confidential business information that is not subject to public disclosure in accordance with section 364.183, F.S. and Rule 25-22.006, F.A.C.

Respectfully submitted this 14th day of June, 2012.



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EASTON ATTACHMENT "A"

SPECIFIC JUSTIFICATION FOR CONFIDENTIAL CLASSIFICATION

Location of Confidential Information	Description of Confidential Information	Specific Justification
Easton Direct Testimony, highlighted information at page 20, lines 6 and 8-11	This information discusses information related to the Broadwing (Focal) Agreements that was provided to QCC in response to either IXC subpoenas issued in this docket or from Broadwing in response to QCC discovery and designated as confidential in accordance with the parties' NDAs. (See also, Exhibits WRE-5A and 5-B.)	QCC is requesting confidentiality for this information because it has been provided in accordance with the terms of Nondisclosure Agreements (NDAs) with either the producing IXCs or the CLECs and designated confidential by those parties. Generally, as claimed by the producing parties, the information would appear to fall under s. 364.183(d), which protects proprietary confidential business information in the form of contractual data, or 364.183(e), F.S. which protects competitively sensitive proprietary confidential business information. Further, allowing parties to exchange proprietary confidential business information subject to protection under voluntarily executed NDAs facilitates the discovery process.
Easton Direct Testimony, highlighted information at page 22, lines 8, 10, 11, 12 and 19	This information discusses information related to the Budget Agreement that was provided to QCC in response to either IXC subpoenas issued in this docket or from Budget in response to QCC discovery and designated as confidential in accordance with the parties' NDAs. (See also, Exhibits WRE-8)	QCC is requesting confidentiality for this information because it has been provided in accordance with the terms of NDAs with either the producing IXCs or the CLECs and designated confidential by those parties. Generally, as claimed by the producing parties, the information would appear to fall under s. 364.183(d), which protects proprietary confidential business information in the form of contractual data, or 364.183(e), which protects competitively sensitive proprietary confidential business information. Further, allowing parties to exchange proprietary confidential business information subject to protection under voluntarily executed NDAs facilitates the discovery process.

<p>Easton Direct Testimony, highlighted information at page 24, lines 6 and 7</p>	<p>This information discusses information related to the BullsEye Agreement that was provided to QCC in response to either IXC subpoenas issued in this docket or from BullsEye in response to QCC discovery and designated as confidential in accordance with the parties' NDAs. (See also, Exhibits WRE- 11.)</p>	<p>QCC is requesting confidentiality for this information because it has been provided in accordance with the terms of NDAs with either the producing IXCs or the CLECs and designated confidential by those parties. Generally, as claimed by the producing parties, the information would appear to fall under s. 364.183(d), which protects proprietary confidential business information in the form of contractual data, or 364.183(e) which protects competitively sensitive proprietary confidential business information. Further, allowing parties to exchange proprietary confidential business information subject to protection under voluntarily executed NDAs facilitates the discovery process.</p>
<p>Easton Direct Testimony, highlighted information at page 27, lines 4, 6 and 7</p>	<p>This information discusses information related to the Ernest Agreements that were provided to QCC in response to IXC subpoenas issued in this docket and designated as confidential in accordance with the parties' NDAs. (See also, Exhibits WRE-17A and 17B)</p>	<p>QCC is requesting confidentiality for this information because it has been provided in accordance with the terms of NDAs with the producing IXCs and designated confidential by those parties. Generally, as claimed by the producing parties, the information would appear to fall under s. 364.183(d), which protects proprietary confidential business information in the form of contractual data, or 364.183(e) which protects competitively sensitive proprietary confidential business information. Further, allowing parties to exchange proprietary confidential business information subject to protection under voluntarily executed NDAs facilitates the discovery process.</p>
<p>Easton Direct Testimony, highlighted information at page 28, lines 9, 11 and 12</p>	<p>This information discusses information related to the Flatel Agreement that was provided to QCC in response to IXC subpoenas issued in this docket. (See also, Exhibit WRE-20)</p>	<p>QCC is requesting confidentiality for this information because it has been provided in accordance with the terms of NDAs with the producing IXCs and designated confidential by those parties. Generally, as claimed by the producing parties, the information would appear to fall under s. 364.183(d), which protects proprietary confidential business information in the form of contractual data, or 364.183(e) which protects competitively sensitive proprietary confidential business information. Further, allowing parties to exchange proprietary confidential business information subject to protection under voluntarily executed NDAs facilitates the discovery process.</p>

<p>Easton Direct Testimony, highlighted information at page 29, lines 5 and 6</p>	<p>This information discusses information related to the Granite Agreements that was provided to QCC in response to either IXC subpoenas issued in this docket or from Granite in response to QCC discovery and designated as confidential in accordance with the parties' NDAs. (See also, Exhibits 23-A and 23-B)</p>	<p>QCC is requesting confidentiality for this information because it has been provided in accordance with the terms of NDAs with either the producing IXCs or the CLECs and designated confidential by those parties. Generally, as claimed by the producing parties, the information would appear to fall under s. 364.183(d), which protects proprietary confidential business information in the form of contractual data, or 364.183(e) which protects competitively sensitive proprietary confidential business information. Further, allowing parties to exchange proprietary confidential business information subject to protection under voluntarily executed NDAs facilitates the discovery process.</p>
<p>Easton Direct Testimony, highlighted information at page 31, lines 16 through page 33, line 21</p>	<p>This information discusses information related to the MCI-ATT switch access agreement that was provided by MCI to QCC in response to discovery in Colorado and designated confidential under the terms of the parties' NDA. (See also, Exhibit WRE-29B)</p>	<p>QCC is requesting confidentiality for this information because it has been provided in accordance with the terms of the NDA between QCC and MCI and designated as confidential by MCI. Generally, as claimed by the MCI, the information would appear to fall under s. 364.183(d), which protects proprietary confidential business information in the form of contractual data, or 364.183(e) which protects competitively sensitive proprietary confidential business information. Further, allowing parties to exchange proprietary confidential business information subject to protection under voluntarily executed NDAs facilitates the discovery process.</p>
<p>Easton Direct Testimony, highlighted information at page 34, lines 16-19.</p>	<p>This information discusses information related to the MCI Agreement that was provided to QCC in response to either IXC subpoenas issued in this docket or from MCI in response to QCC discovery and designated as confidential in accordance with the parties' NDAs. (See also, Exhibit WRE-26)</p>	<p>QCC is requesting confidentiality for this information because it has been provided in accordance with the terms of nondisclosure agreements (NDAs) with either the producing IXCs or the CLECs and designated confidential by those parties. Generally, as claimed by the producing parties, the information would appear to fall under s. 364.183(d), which protects proprietary confidential business information in the form of contractual data, or 364.183(e) which protects competitively sensitive proprietary confidential business information. Further, allowing parties to exchange proprietary confidential business information subject to protection under voluntarily executed NDAs facilitates the discovery process.</p>

<p>Easton Index to Exhibits, highlighted information on pages 1 and 2</p>	<p>This information contains the IXC names and the effective dates of agreements entered into by Respondent CLECs with IXCs. Due to differences in the manner in which QCC obtained the information (e.g., via a subpoena response from the contracting IXC or directly from a responding CLEC), the manner in which the producing party designated the information, and mechanisms by which certain of the information was made public (e.g., in the context of another state proceeding or by public acknowledgement of a CLEC) the confidentiality of the IXC name and the effective date is treated differently for different CLEC.</p>	<p>QCC is requesting confidentiality for this information because it has been provided in accordance with the terms of NDAs with either the producing IXCs or the CLECs and designated confidential by those parties. Generally, as claimed by the producing parties, the information would appear to fall under s. 364.183(d), which protects proprietary confidential business information in the form of contractual data, or 364.183(e) which protects competitively sensitive proprietary confidential business information. Further, allowing parties to exchange proprietary confidential business information subject to protection under voluntarily executed NDAs facilitates the discovery process.</p>
<p>Exhibit WRE- 1A, highlighted information in Columns 3, 4 5 and 6</p>	<p>This information contains the IXC names, the effective dates and rates of agreements entered into by Respondent CLECs with IXCs. Due to differences in the manner in which QCC obtained the information (e.g., via a subpoena response from the contracting IXC or directly from a responding CLEC), the manner in which the</p>	<p>QCC is requesting confidentiality for this information because it has been provided in accordance with the terms of nondisclosure agreements (NDAs) with either the producing IXCs or the CLECs and designated confidential by those parties. Generally, as claimed by the producing parties, the information would appear to fall under s. 364.183(d), which protects proprietary confidential business information in the form of contractual data, or 364.183(e) which protects competitively sensitive proprietary confidential business information. Further, allowing parties to exchange proprietary confidential business information subject to protection under voluntarily executed NDAs facilitates the discovery process.</p>

	<p>producing party designated the information, and mechanisms by which certain of the information was made public (e.g., in the context of another state proceeding or by public acknowledgement of a CLEC) the confidentiality of the IXC name and the effective date is treated differently for different CLEC. However, the rates and terms of the agreements are uniformly confidential, except for the PAETEC AT&T agreement, which PAETEC voluntarily made public.</p>	
<p>WRE-Exhibit 1B highlighted information in columns 3, 4, 5 and 6</p>	<p>This information is information concerning a specific agreement entered into by Broadwing. The information is in a separate exhibit because it constitutes a separate category of “lawyers only” confidential information under the terms of the parties’ NDA.</p>	<p>See, justification for WRE-1A.</p>
<p>Exhibits WRE-5A and 5-B, Broadwing (Focal) Agreements, entire documents</p>	<p>This information is the first of several agreements obtained by QCC either in response to subpoenas issued to IXCs in this docket or by Respondent CLECs in response to discovery. The agreements were produced in accordance</p>	<p>QCC is requesting confidentiality for this information because it has been provided in accordance with the terms of NDAs with either the producing IXCs or the CLECs and designated confidential by those parties. Generally, as claimed by the producing parties, the information would appear to fall under s. 364.183(d), which protects proprietary confidential business information in the form of contractual data, or 364.183(e) which protects competitively sensitive proprietary confidential business</p>

	with NDAs between QCC and the responding IXC or QCC and the Respondent CLECs and were designated as confidential by the producing entities.	information. Further, allowing parties to exchange proprietary confidential business information subject to protection under voluntarily executed NDAs facilitates the discovery process.
Exhibit WRE-6B, highlighted portions	This information is information provided by Broadwing to QCC in response to discovery and designated confidential under the terms of the parties' NDA.	This information is the subject of a previous Claim of Confidentiality filed by Broadwing in this docket on April 11, 2012.
Exhibit WRE-8, Budget Agreement, entire document	See, explanation for Exhibit 5A above.	See, justification for Exhibit 5A above.
Exhibit WRE-11, BullsEye Agreement, entire document	See, explanation for Exhibit 5A above.	See, justification for Exhibit 5A above.
Exhibit WRE-14A through 14-C, DeltaCom Agreements, entire documents	See, explanation for Exhibit 5A above.	See, justification for Exhibit 5A above.
Exhibit WRE-17A and 17-B, Ernest Agreements, entire documents	See, explanation for Exhibit 5A above.	See, justification for Exhibit 5A above.
Exhibit WRE-20, Flatel Agreements, entire documents	See, explanation for Exhibit 5A above.	See, justification for Exhibit 5A above.
Exhibit WRE-23A and 23-B, Granite Agreements, entire documents	See, explanation for Exhibit 5A above.	See, justification for Exhibit 5A above.
Exhibit WRE-24B, highlighted information on pp. 3 of 8, 5 of 8 and 6 of 8	This information is information provided by Granite to QCC in response to discovery and designated confidential under the terms of the parties' NDA.	This information is the subject of a previous Claim of Confidentiality filed by Granite in this docket on May 4, 2012.

Exhibit WRE-26, MCI Agreement, entire document	See, explanation for Exhibit 5A above.	See, justification for Exhibit 5A above.
Exhibit WRE-29B, MCI Internal Correspondence, entire document	This information contains information related to the MCI-ATT switch access agreement provided by MCI to QCC in response to discovery in Colorado and designated confidential under the terms of the parties' NDA.	QCC is requesting confidentiality for this information because it has been provided in accordance with the terms of the NDA between QCC and MCI and designated as confidential by MCI. Generally, as claimed by the MCI, the information would appear to fall under s. 364.183(d), which protects proprietary confidential business information in the form of contractual data, or 364.183(e) which protects competitively sensitive proprietary confidential business information. Further, allowing parties to exchange proprietary confidential business information subject to protection under voluntarily executed NDAs facilitates the discovery process.
Exhibit WRE-30, Navigator Agreement, entire document	See, explanation for Exhibit 5A above.	See, justification for Exhibit 5A above.
Exhibit WRE-33C and 33-D, PAETEC Agreements, entire documents	See, explanation for Exhibit 5A above.	See, justification for Exhibit 5A above.
Exhibit WRE-36, TWT Agreement, entire document	See, explanation for Exhibit 5A above.	See, justification for Exhibit 5A above.
Exhibits WRE-39A through 39-D, US LEC Agreements, entire documents	See, explanation for Exhibit 5A above.	See, justification for Exhibit 5A above.
Exhibits WRE-42-A through 42-E, Windstream Nuvox Agreements, entire documents	See, explanation for Exhibit 5A above	See, justification for Exhibit 5A above