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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Amended Complaint of Qwest Communications Company, LLC against tw telecom of florida, l.p.; BullsEye Telecom, Inc.; Ernest Communications, Inc.; Flatel, Inc.; Navigator Telecommunications, LLC; and John Does 1 through 50, for unlawful discrimination.

DOCKET NO. 090538-TP

DATED: OCTOBER 22, 2012

**QWEST COMMUNICATIONS COMPANY, LLC'S OBJECTIONS AND SUPPLEMENTAL RESPONSES TO BULLSEYE TELECOM, INC.'S SECOND SET OF INTERROGATORIES (NOS. 10-12, 17-18) AND THIRD SET OF DOCUMENT REQUESTS (NOS. 17 and 22)**

Qwest Communications Company, LLC d/b/a CenturyLink QCC ("QCC") submits its supplemental responses to BullsEye Telecom, Inc. ("BullsEye") Second Set of Interrogatories (Nos. 10-12, 17-18) and Third Set of Document Requests (Nos. 17 and 22) to Qwest Communications Company, LLC d/b/a CenturyLink QCC (collectively "Requests", individually "Request").

All general objections made in previous responses to information requests are incorporated by reference.

- COM \_\_\_\_\_
- AFD \_\_\_\_\_
- APA \_\_\_\_\_
- ECO \_\_\_\_\_
- ENG \_\_\_\_\_
- GCL CD \_\_\_\_\_
- IDM \_\_\_\_\_
- TEL \_\_\_\_\_
- CLK \_\_\_\_\_

DOCUMENT NUMBER DATE

07354 OCT 30 2012

FPSC-COMMISSION CLERK

## INTERROGATORIES

### BullsEye Interrogatory No. 10

On page 17 of the QCC Rebuttal Testimony of William R. Easton, Mr. Easton refers to agreements between QCC and CLECs. As to each such agreement, or similar such arrangements or understandings, identify:

- a. Each CLEC and any other LEC with whom QCC had such an agreement, arrangement, or understanding;
- b. The period during which the agreement, arrangement, or understanding was in effect;
- c. The rates, terms and conditions relating to payment, non-payment and/or waiver of access charges, and
- d. The total value of such waivers, agreements, arrangements, or understandings.

**RESPONSE:** QCC objects to this request on the basis that it is overly broad, unduly burdensome and (to the extent it seeks information regarding arrangements with BullsEye) seeks information already in your custody and control. QCC further objects on the basis that this request is not reasonably calculated to lead to the discovery of admissible evidence. This case relates to whether BullsEye violated Florida law with regard to its provision of intrastate switched access in Florida. To the extent BullsEye is seeking detailed information regarding agreements between QCC and other CLECs, such information bears no relation to this matter. Facts and circumstances related to QCC's provision of an unrelated, unregulated service to other parties is wholly irrelevant to whether BullsEye violated Florida law in connection with its provision of intrastate switched access to QCC. Further, the request seeks information beyond Florida.

Respondent: QCC Legal

**SUPPLEMENTAL RESPONSE:** Without waiver of its objections, QCC provides this supplemental response consistent with the Order Granting in Part BullsEye Telecom, Inc.'s Emergency Motion to Compel Discovery.

- a. The LEC associated agreement is identified in the Lawyers Only Confidential chart provided below. This information is provided pursuant to the parties' non-disclosure agreement.
- b. The time period associated with each agreement is identified in the Lawyers Only Confidential chart provided below. This information is provided pursuant to the parties' non-disclosure agreement.
- c. The rates, terms and conditions relating to payment, non-payment and/or waiver of access charges can be found in the agreements produced in response to Request for Production No. 17.

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

- d. The value of the switched access waivers were intended to be an approximate offset against the value of lower wholesale long distance rates provided by QCC to the CLEC with a net total value of zero for both parties. As Mr. Easton explained in testimony, this accommodation was made because some CLECs contended that, while entitled to charge for switched access, they were operationally unable to do so. In reality however, some QCC customers enjoyed the lower wholesale long distance rates but failed to waive their switched access charges to QCC, so that the value of the agreement as to these CLEC was negative for QCC.

REDACTED

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Respondent: Candace Mowers  
Manager Public Policy  
1801 California Street  
Denver, CO 80202

**BullsEye Interrogatory No. 11**

In any instance where QCC had an agreement, arrangement or understanding with a LEC under which QCC obtained waivers of or was otherwise not assessed switched access charges, identify on a monthly basis the actual net rate (a) charged to, and (b) paid by, QCC for originating access and terminating access.

**RESPONSE:** See QCC's objections to BullsEye Interrogatory No. 10.

Respondent: QCC Legal

**SUPPLEMENTAL RESPONSE:** Without waiver of its objections, QCC provides this supplemental response consistent with the Order Granting in Part BullsEye Telecom, Inc.'s Emergency Motion to Compel Discovery.

For contracts containing a waiver of intrastate switched access charges where the LEC applied the waiver consistent with the terms of the agreement, QCC was charged and paid zero for the traffic subject to the waiver.

Respondent: Candace Mowers  
Manager Public Policy  
1801 California Street  
Denver, CO 80202

**BullsEye Interrogatory No. 12**

In any instance where QCC claims that QCC was charged for switched access by a CLEC despite the existence between QCC and the CLEC containing a waiver of switched access charges, did QCC pay such charges to the CLEC? If so, identify all such amounts.

**RESPONSE:** See QCC's objections to BullsEye Interrogatory No. 10.

Respondent: QCC Legal

**SUPPLEMENTAL RESPONSE:** Without waiver of its objections, QCC provides this supplemental response consistent with the Order Granting in Part BullsEye Telecom, Inc.'s Emergency Motion to Compel Discovery.

Yes. However, when QCC later discovered it was being charged inappropriately, QCC made demand on some CLECs for refund. See QCC's supplemental response to BullsEye Interrogatory No. 10. The chart contained in that supplemental response identifies, to the best of QCC's ability to reconstruct such information, the total amount that was billed by each particular LEC for intrastate switched access in Florida during the time the respective agreements were in effect.

Respondent: Candace Mowers  
Manager Public Policy  
1801 California Street  
Denver, CO 80202

**BullsEye Interrogatory No. 17**

State whether QCC contends or believes that AT&T's off-tariff agreements for switched access service were void, illegal, and/or unenforceable in Florida prior to July 1, 2011.

**RESPONSE:** QCC objects to this request on the basis that it calls for a legal conclusion.

Respondent: QCC Legal

**SUPPLEMENTAL RESPONSE:** Without waiver of its objections, QCC provides this supplemental response consistent with the Order Granting in Part BullsEye Telecom, Inc.'s Emergency Motion to Compel Discovery.

No. QCC does not contend, nor has it ever contended in this proceeding, that the AT&T agreements are "void, illegal and/or unenforceable in Florida."

Respondent: QCC Legal

**BullsEye Interrogatory No. 18**

To the extent QCC does not currently contend or believe that AT&T's off-tariff agreements for switched access service were void, illegal, and/or unenforceable in Florida prior to July 1, 2011, specify the date on which QCC ceased to believe in the accuracy of that assertion and identify the facts upon which QCC currently relies.

**RESPONSE:** QCC objects to this request on the basis that it calls for a legal conclusion.

Respondent: QCC Legal

**SUPPLEMENTAL RESPONSE:** Without waiver of its objections, QCC provides this supplemental response consistent with the Order Granting in Part BullsEye Telecom, Inc.'s Emergency Motion to Compel Discovery.

As stated in its Supplemental Response to the IR No. 17 QCC does not contend, nor has it ever contended in this proceeding that AT&T's agreements are "void, illegal and/or unenforceable in Florida." As a result of the Minnesota district court's dismissal of QCC's complaint against AT&T in August 2007, in part because the court determined it was not the proper forum for actions based on other states' laws and regulations, QCC chose to pursue relief against the CLECs who had entered into discriminatory agreements with AT&T and other IXCs in separate state Commission actions under the applicable laws of each state. None of these state Commission actions, including the Florida action, are based on contentions regarding the validity, illegality or enforceability of the underlying agreements, but instead are based on the CLECs' conduct subsequent to entering into the agreements. The facts upon which QCC relies to support its Complaint in this proceeding are set forth in the direct and rebuttal testimony of its witnesses (Easton, Canfield, Hensley Eckert and Weisman).

Respondent: QCC Legal



**DOCUMENT REQUESTS**

**BullsEye Document Request No. 17**

On page 17 of the Rebuttal Testimony of William R. Easton, Mr. Easton refers to agreements between QCC and CLECs. Produce all documents relating to or reflecting the agreements referred to by Mr. Easton.

**RESPONSE:** QCC objects to this request on the basis that it is overly broad and unduly burdensome. QCC further objects on the basis that the request is not reasonably calculated to lead to the discovery of admissible evidence. This complaint case focuses on whether BullsEye engaged in unlawful rate discrimination with regard to its provision of intrastate switched access to QCC in Florida. The documents sought through this request do not bear any connection to that determination. Without waiver of its objections, QCC responds as follows.

See QCC's response, as amended, to Birch Interrogatory No. 1.

**SUPPLEMENTAL RESPONSE:** Without waiver of its objections, QCC provides this supplemental response consistent with the Order Granting in Part BullsEye Telecom, Inc.'s Emergency Motion to Compel Discovery.

The provisions of each agreement relating to the waiver of switched access are attached hereto as Bates Nos. 003041-003163. The attached are designated as Lawyers Only Confidential, and are provided pursuant to the parties' non-disclosure agreement.

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**BullsEye Document Request No. 22**

Produce all documents and correspondence of Ms. Lisa Hensley Eckert relating to this proceeding.

**RESPONSE:** QCC objects to this request on the basis that it is overly broad and unduly burdensome. QCC further objects on the basis that the documents are protected by attorney client privilege and/or work product doctrine. BullsEye's request for "all documents" regarding a case that has been open for 3 years is vastly overbroad and unreasonable.

**SUPPLEMENTAL RESPONSE:** Without waiver of its objections, QCC provides this supplemental response consistent with the Order Granting in Part BullsEye Telecom, Inc.'s Emergency Motion to Compel Discovery.

See the attached documents Bates Nos.003164-003557.

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RESPECTFULLY SUBMITTED on this 22<sup>nd</sup> day of October, 2012.

/s/ Susan S. Masterton  
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