



REDACTED

November 9, 2012

HAND DELIVERY

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

_____ check for confidentiality
_____ request for confidentiality
X request for confidentiality
_____ filed by GFC

For DN 07601-12, which
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RECEIVED-FPSC
12 NOV -9 PM 4:54
COMMISSION
CLERK

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.; 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:

Enclosed is tw telecom of florida, l.p.'s Request for Confidential Classification, submitted by hand delivery in the above-referenced docket.

If you have any questions, please call me at 850-521-1708.

Sincerely,

Matthew J. Feil

Enclosures
COM _____
AFD _____
APA _____
ECO _____
ENG _____
GCL 4
IDM _____
TEL 2
CLK 1

DOCUMENT NUMBER - DATE

07600 NOV-9 02

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); tw telecom of florida, l.p.; Granite Telecommunications, LLC; Broadwing Communications, LLC; Budget Prepay, Inc.; Bullseye Telecom, Inc.; DeltaCom, Inc.; Ernest Communications, Inc.; Flatel, Inc.; Navigator Telecommunications, LLC; PaeTec Communications, Inc.; Saturn Telecommunications, LLC; US LEC of Florida, LLC; Windstream Nuvox, Inc.; and John Does 1 through 50, for unlawful discrimination.

Docket No. 090538-TP

Filed: November 9, 2012

**TWTC'S REQUEST FOR
CONFIDENTIAL CLASSIFICATION
(PORTION OF PREFILED REBUTTAL AND EXHIBIT OF ROCHELLE D. JONES)**

Comes now tw telecom of florida, l.p., ("TWTC" or "the Company"), by and through its undersigned counsel, pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, and hereby submits its Request for Confidential Classification for information contained in the prefiled rebuttal testimony and exhibits of Ms. Rochelle D. Jones, as more specifically identified herein. In support thereof, TWTC hereby states that:

1. On August 9, 2012, TWTC prefiled the rebuttal testimony and exhibits of Ms. Rochelle D. Jones. Pages 3, 8 and 10 of Ms. Jones prefiled rebuttal and prefiled Exhibit No. RDJ -1 included confidential, proprietary business information of TWTC, Qwest and/or AT&T.

This August 9 filing was accompanied by a claim for confidential treatment in accordance with

DOCUMENT NUMBER-DATE

07600 NOV-9 2

FPSC-COMMISSION CLERK

Rule 25-22.006.¹ The aforesaid confidential, proprietary business information includes information regarding the purchases and negotiations of unregulated services and this information has not otherwise been publicly disclosed. If disclosed, this information could harm the Company's competitive interests and its ability to contract for goods and services on favorable terms, which would ultimately have detrimental impacts on the Company and its business operations. At the August 23 hearing in this matter, Ms. Jones prefiled rebuttal was inserted into the hearing as though read and RDJ-1 was entered as Hearing Exhibit No. 81.

2. The information for which TWTC seeks confidential classification is information that the Company treats as confidential, and that meets the definition of "proprietary confidential business information" as set forth in Section 364.183(3), Florida Statutes, which 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 the information.
- (f) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities.

3. Attached as Exhibit A to this Request is a matrix identifying the specific portions of the prefiled Jones rebuttal and prefiled Exhibit No. RDJ-1 for which the Company is seeking

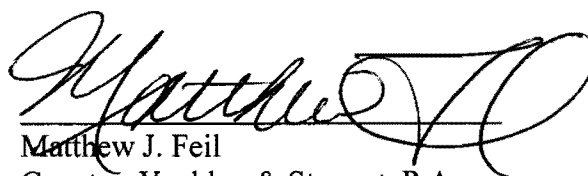
¹ The confidential version of the testimony and exhibit filed on August 9 were assigned document no. 05454-12.

confidential treatment, along with the specific justification for each item specified in this request. Also included with this Request as Exhibit B-1 is a separate envelope labeled "Confidential" which contains one highlighted copy of the confidential portions of Ms. Jones prefiled rebuttal. Exhibit B-2 is a separate envelope labeled "Confidential" which contains one highlighted copy of Exhibit RDJ-1. This filing also includes two redacted copies of this information, to wit: Exhibit C-1 (testimony) and Exhibit C-2 (Exhibit RDJ-1).

4. TWTC asks that confidential classification be granted for a period of at least 18 months. Should the Commission no longer find that it needs to retain the information, TWTC respectfully requests that the confidential information be returned to the Company.

WHEREFORE, TWTC respectfully requests that the highlighted information contained in Pages 3, 8 and 10 of Ms. Jones prefiled rebuttal and prefiled Exhibit No. RDJ -1 (Hearing Exhibit No. 81) be classified as "proprietary confidential business information," and thus, exempt from Section 119.07, Florida Statutes.

RESPECTFULLY SUBMITTED this 9th day of November, 2012.



Matthew J. Feil
Gunster, Yoakley & Stewart, P.A.
215 South Monroe St., Suite 601
Tallahassee, FL 32301
(850) 521-1706

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 9th day of November, 2012.

Lee Eng Tan Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399-0850 ltan@psc.state.fl.us	Mr. David Bailey BullsEye Telecom, Inc. 25925 Telegraph Road, Suite 210 Southfield, MI 48033-2527 dbailey@bullseyetelecom.com
Alan C. Gold, P.A. 1501 Sunset Drive, 2 nd Floor Coral Gables, FL 33143 agold@acgoldlaw.com	Ernest Communications, Inc. 5275 Triangle Parkway Suite 150 Norcross, GA 30092-6511 lhaag@ernestgroup.com
Flatel, Inc. c/o Adriana Solar Executive Center, Suite 100 2300 Palm Beach Lakes Blvd. West Palm Beach, FL 33409-3307 asolar@flatel.net	Andrew M. Klein/Allen C. Zoracki Klein Law Group 1250 Connecticut Ave. NW, Suite 200 Washington, DC 20036 AKlein@kleinlawPLLC.com azoracki@kleinlawpllc.com
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Ms. Rebecca A. Edmonston Verizon Access Transmission Services 106 East College Avenue, Suite 710 Tallahassee, FL 32301-7721 rebecca.edmonston@verizon.com	Ms. Carolyn Ridley tw telecom of florida l.p. 2078 Quail Run Drive Bowling Green, KY 42104 Carolyn.Ridley@twtelecom.com

By: 
Matthew Feil, Esq.

EXHIBIT A**Justification Matrices**

REBUTTAL TESTIMONY OF ROCHELLE JONES

Location & Page	Lines	Description	Reason
Jones Rebuttal, page 3	Figures in line 13 and line 16	AT&T spend, commitment duration, percentage of total spend for switched access	The subject information reflects contractual data for unregulated services sold by TWTC and also therefore relates to the competitive interests of TWTC. Disclosure could harm TWTC's market position for unregulated services as customers and competitors could use the subject information to their advantage in the market for such services. Further the amounts and types of services purchased constitute "customer proprietary network information" pursuant to 47 USC 222 and therefore must be kept confidential under federal law.
Jones Rebuttal, page 8	Figure on line 17	Percentage of Qwest spend	Same as above
Jones Rebuttal, Page 10	Lines 3 – 7	Various aspects of Qwest contracts with TWTC	Same as above

EXHIBIT RDJ-1

Location & Page	Columns & Rows	Description	Reason
<p>Prefiled Exhibit RDJ-1 (Hearing Exhibit No. 81)</p>	<p>All columns and all rows after the first row containing the following headings: "Year," "Qwest Total Spend," "AT&T Total Spend," "Required Spend pursuant to ATT contract," "Qwest Spend as Percentage of ATT Spend," "Qwest Spend as a percentage of ATT Contract Requirement" row after "Trial Balance" heading, including auditor's handwritten notes.</p>	<p>Dollars of unregulated services purchased from TWTC by AT&T and Qwest and relative percentages</p>	<p>The subject information reflects contractual data for unregulated services sold by TWTC and also therefore relates to the competitive interests of TWTC. Disclosure could harm TWTC's market position for unregulated services as customers and competitors could use the subject information to their advantage in the market for such services. Further the amounts and types of services purchased constitute "customer proprietary network information" pursuant to 47 USC 222 and therefore must be kept confidential under federal law.</p>

**Exhibit
C-1**

REDACTED

1 sufficiently unique agreement to justify the discounts provided in the
2 agreement and to demonstrate that Qwest has never been in a position to
3 meet the requirements of the TWTC/AT&T agreement and therefore could
4 not qualify for the discounts offered in the agreement.

5

6 **Q. WHAT WERE THE MAIN PROVISIONS OF THE AGREEMENT BETWEEN AT&T**
7 **AND TWTC?**

8 A. The agreement between TWTC and AT&T covered all the states where TWTC
9 provided services; gave discounts for a variety of services primarily focused on
10 special access and direct transport in exchange for AT&T's commitment to
11 meet or exceed a "Total Cumulative Revenue Commitment." The "Total
12 Cumulative Revenue Commitment" required AT&T to spend approximately
13 [REDACTED] by year [REDACTED] of the contract. The agreement also required growth in the
14 revenue stream in the latter years of the contract. While Florida intrastate
15 switched access services were an integral part of this revenue commitment,
16 they only accounted for less than [REDACTED] % of the commitment.

17

18 **Q. YOU STATED THAT THE AGREEMENT BETWEEN TWTC AND AT&T IS A**
19 **REVENUE-BASED AGREEMENT. PLEASE DESCRIBE WHAT A REVENUE-BASED**
20 **AGREEMENT IS?**

- COM _____
- AFD _____
- APA _____ 19
- ECO _____
- ENG _____ 20
- GCL _____
- IDM _____
- TEL _____
- CLK _____

1 to adopt the entire TWTC/AT&T agreement. Instead, Qwest wants to take
2 advantage of the one small part of that agreement which Qwest likes and
3 discard the much more significant remainder and all of its attendant
4 obligations, including the revenue commitment.

5

6 **Q. HOW WOULD TWTC DETERMINE IF QWEST WAS UNDER LIKE**
7 **CIRCUMSTANCES TO AT&T FOR THE PURPOSES OF EXTENDING THE EXACT**
8 **SAME CONTRACT TERMS TWTC NEGOTIATED WITH AT&T TO QWEST?**

9 A. As I just stated, the best and easiest way to determine if Qwest was in like
10 circumstances would have been for Qwest to adopt the exact same
11 agreement in its entirety, which Qwest did not and, based on Qwest's spend
12 over the period, could not. However, in my CONFIDENTIAL Exhibit ____ (RDJ-
13 1), I compare the differences in how much AT&T and Qwest were spending
14 with TWTC on a national basis. The time period covers years that TWTC
15 maintains would fall within statute of limitations for a complaint in Florida
16 and includes the period of time in which SWA was discounted as part of the
17 AT&T revenue commitment. Qwest's average spend was approximate █ %
18 **short** of the revenue requirement needed to fulfill the TWTC/AT&T
19 agreement terms and conditions. The year-over-year comparison clearly
20 demonstrates that Qwest has never been under like circumstances to or
21 "similarly situated" to AT&T.

1 based agreement with TWTC demonstrates that Qwest and TWTC had ample
2 opportunity to come to mutual terms similar to the TWTC/AT&T agreement;

3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]

7 [REDACTED] It should also be noted
8 that several amendments were negotiated **after** Qwest knew about the
9 TWTC/AT&T agreement.

10

11 **Q. THROUGHOUT QWEST'S DIRECT TESTIMONY, ITS WITNESSES ALLEGE THAT**
12 **CLECs HAD "SECRET" AGREEMENTS? WAS TWTC'S AGREEMENT WITH AT&T**
13 **"SECRET"?**

14 **A.** No. There are no regulatory requirements in Florida to file agreements,
15 therefore the use of the word "secret" is inappropriate, disingenuous and I
16 assume being used for dramatic effect. Besides, the characterization that the
17 agreement was secret is false. In 2005, TWTC determined that the agreement
18 was large enough to be material to the company and disclosed and filed a
19 redacted version of the agreement with the SEC. I have attached a copy of
20 the TWTC/AT&T agreement that was filed with the SEC as Exhibit ____ (RDJ-2).
21 Additionally, it should be noted that TWTC and Qwest has a negotiated,

**Exhibit
C-2**