

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.; 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
ORDER NO. PSC-13-0169-CFO-TP
ISSUED: April 25, 2013

ORDER GRANTING BULLSEYE TELECOM, INC.'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 05422-12)

On November 13, 2012, pursuant to Rule 25-22.006, Florida Administrative Code, BullsEye Telecom, Inc. (BullsEye) filed a request for confidential classification (Request) of "certain materials produced by BullsEye in connection with Rebuttal Testimony of Peter K. LaRose." BullsEye asserts that the confidential information in the documents is intended to be proprietary, is treated as proprietary, and has not been publicly disclosed. BullsEye requests that the Commission grant confidential classification for the documents for a period of 18 months from the date of the issuance of this Order, pursuant to Section 364.183, Florida Statutes.

Request for Confidential Classification

Section 364.183, Florida Statutes, provides that "any records received by the Commission which are shown and found by the Commission to be proprietary confidential business information shall be kept confidential and shall be exempt from Section 119.07(1) [the Public Records Act]." Pursuant to Section 364.183, Florida Statutes, proprietary confidential business information includes information that is intended to be and is treated by the company as private, in that disclosure of the information would cause harm to the company's ratepayers or business operations, and has not been voluntarily disclosed to the public. Confidential business information includes, but is not limited to, the following:

- "Trade Secrets."

DOCUMENT NUMBER-DATE

02177 APR 25 2013

FPSC-COMMISSION CLERK

- “Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms.”
- “Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.” *Id* at (a), (d), and (e).

BullsEye contends that the information, described with specific justification in Attachment A, is treated as confidential by BullsEye. The information is generally described as contractual data, settlement data and information relating to competitive interests. BullsEye argues that the disclosure of the information would impair BullsEye’s ability to protect BullsEye’s competitive position, adversely affect BullsEye’s ability to negotiate contracts to the benefit of its customers, and would affect the ability of parties to settle disputes. Based on the foregoing, the Company asserts that the information is entitled to confidential classification pursuant Section 364.183, F.S.

Ruling

Upon review, I find that the information identified in Document No. 05422-12 more specifically described in Attachment A is treated by the Company as private, has not otherwise been disclosed, and is (a) contractual data, the disclosure of which would impair the efforts of the Company to contract for goods or services on favorable terms, or (b) related to competitive interests, the disclosure of which would impair the competitive business of the provider of the information. I find that disclosure of the identified information would cause harm to BullsEye’s ratepayers or to its business operations. Thus, the information shall be granted confidential classification pursuant to Section 364.183, F.S.

Based on the foregoing, it is

ORDERED by Commissioner Lisa Polak Edgar, as Prehearing Officer, that BullsEye’s Request for Confidential Classification of Document No. 05422-12, as detailed in Attachment A, is granted. It is further

ORDERED that the information in Document No. 05422-12 for which confidential classification has been granted shall remain protected from disclosure for a period of 18 months from the date of issuance of this Order. At the conclusion of the 18-month period, the confidential information will no longer be exempt from Section 119.07(1), F.S., unless BullsEye or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information. It is further

ORDERED that this Order shall be the only notification by the Commission to the parties of the date of declassification of the materials discussed herein.

By ORDER of Commissioner Lisa Polak Edgar, as Prehearing Officer, this 25th day of April, 2013.


LISA POLAK EDGAR
Commissioner and Prehearing Officer
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

TLT

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the

ORDER NO. PSC-13-0169-CFO-TP
DOCKET NO. 090538-TP
PAGE 4

appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

ATTACHMENT A

**JUSTIFICATIONS FOR CONFIDENTIAL CLASSIFICATION
REBUTTAL TESTIMONY OF PETER K. LAROSE (Doc. Nos. 05421-12 and 05422-12)**

PAGE/LINES	DESCRIPTION AND JUSTIFICATION
Page 8, Line 1	Contains highly confidential information about the dollar amount of billing disputes at the time they were settled and resolved as between BullsEye and AT&T. Such information reflects contractual information for unregulated services and thus relates to the competitive interests of BullsEye. Further, the information relates to and reflects the volume of service provided to AT&T, and – if made public – would allow competitors estimate the volume of traffic that BullsEye receives from AT&T and, in turn, estimate the number of BullsEye’s customers, all information that is confidential to BullsEye. Moreover, such data constitutes “customer proprietary network information” pursuant to 47 U.S.C. § 222 required to be kept confidential under federal law.
Page 8, Lines 15 - 21	Contains highly confidential information describing the agreement terms under which BullsEye and AT&T settled a nationwide billing dispute. Such information reflects contractual information for unregulated services and thus relates to the competitive interests of BullsEye. Further, the information relates to and reflects the volume of service provided to AT&T, and – if made public – would allow competitors estimate the volume of traffic that BullsEye receives from AT&T and, in turn, estimate the number of BullsEye’s customers, all information that is confidential to BullsEye. Moreover, such data constitutes “customer proprietary network information” pursuant to 47 U.S.C. § 222 required to be kept confidential under federal law.