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-13-0396-PCO-TP ISSUED: August 28, 2013

The following Commissioners participated in the disposition of this matter:

RONALD A. BRISÉ, Chairman
LISA POLAK EDGAR
EDUARDO E. BALBIS

ORDER DENYING MOTION FOR RECONSIDERATION

BY THE COMMISSION:

Case Background

An administrative hearing was held on October 23, 2012, on Qwest Communications Company, LLC d/b/a CenturyLink QCC's (QCC) complaint against a number of Florida competitive local exchange carriers (CLECs); specifically BullsEye Telecom, Inc. (BullsEye), tw telecom, l.p. (TWTC), Ernest Communications, Inc. (Ernest), Flatel, Inc. (Flatel), and Navigator Telecommunications, LLC (Navigator). During the course of the proceedings, QCC amended its Complaint twice (Amended Complaint) and a number of CLECs were added and then were dismissed from this proceeding due to settlement agreements.[1]

[1] Parties voluntarily dismissed without prejudice are Cox Florida Telecom l.p., by administrative memo on April 7, 2011, and XO Communication Services, Inc. by Order No. PSC-12-0305-PCO-TP issued June 14, 2012. Parties voluntarily dismissed with prejudice are Lightyear Network Solutions, LLC; by Order No. PSC-12-0210-FOF-TP, issued April 23, 2012; Access Point, Inc.; STS Telecom; by Order No. PSC-12-0305-PCO-TP; Birch Communications, Inc; by Order No. PSC-12-0395-PCO-TP, issued August 1, 2012; Budget Prepay, Inc.; DeltaCom, Inc. d/b/a/ EarthLink Business; Saturn Telecommunications Services d/b/a EarthLink Business; Order No. PSC-12-0305-PCO-TP, PaeTec Communications, Inc.; US LEC of Florida LLC d/b/a PAETEC Business Services;

QCC provides long distance service in Florida as an interexchange carrier (IXC). QCC, as an IXC, purchases intrastate switched access service from CLECs, through CLEC published price lists, which the CLECs must publish and may file with this Commission.[2] Switched access service is necessary for IXCs to provide long distance service. QCC became aware that the Respondent CLECs entered into alleged secret agreements that included discounts on price list intrastate switched access rates. QCC believed that the discounts were not reflected on the price lists, and were not offered or furnished to QCC. The CLECs stated that the agreements with different switched access rates were offered as a result of a settlement agreement with AT&T. QCC believed it was entitled to the cost differential between the published schedule rates and the agreement rates.

In Order No. PSC-13-0185-FOF-TP, issued May 1, 2013, (Final Order), we determined that we maintain jurisdiction over anticompetitive behavior even though we no longer retain jurisdiction over Sections 364.08(1) or 364.10(1), Florida Statutes (F.S.) (2010), due to the change in law that went into affect on July 1, 2011.[3] We also found no evidence of anticompetitive behavior or engagement of unreasonable rate discrimination regarding the price lists of the CLECs. Finally, we held that QCC failed to demonstrate that it was similarly situated in terms of call volume, traffic and total spend.

QCC, pursuant to Rule 25-22.060, Florida Administrative Code (F.A.C.), filed a Motion for Reconsideration (Motion) and Request for Oral Argument (QCC Request) of the Final Order. On May 23, 2013, BullsEye and TWTC filed responses in Opposition to QCC's Motion. The respondents asked that QCC's Motion be denied, asserting that QCC's arguments were an attempt to re-litigate issues that we properly resolved in the Final Order. At the August 13, 2013, Commission Conference, oral argument on the Motion for Reconsideration was denied.

We have jurisdiction pursuant to Rule 25-22.060, F.A.C., and Chapters 364 and 120, Florida Statutes.

Standard of Review

The standard of review for a motion for reconsideration is whether the motion identifies a point of fact or law which was overlooked or which we failed to consider in rendering our Order. This standard has often been cited by us in considering motions for reconsideration. We relied on several Florida cases as precedent. *See* Stewart Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315 (Fla. 1974); Diamond Cab Co. v. King, 146 So. 2d 889 (Fla. 1962); and Pingree v. Quaintance, 394 So. 2d 161 (Fla. 1st DCA 1981). It is not appropriate to reargue matters that have already been considered by the Commission. Sherwood v. State, 111 So. 2d 96 (Fla. 3rd

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Windstream Nuvox, Inc.; by Order No. PSC-12-0553-PHO-TP, issued October 17, 2012; and Granite Telecommunications, LLC; by Order No. PSC-12-0536-PCO-TP, issued October 9, 2012; Broadwing Communications, LLC; and, MCImetro Access Transmission Service LLC d/b/a Verizon Access Transmission Services, by Order No. PSC-12-0546-PCO-TP, issued October 16, 2012.

[2] Price lists are now referred to as schedules, pursuant to amended Section 364.04, F.S.

[3] Chapter 2011-36, Laws of Florida, (Regulatory Reform Act).

DCA 1959) citing State ex. Rel. Jaytex Realty Co. Green, 105 So. 2d 817 (Fla. 1st DCA 1958). Furthermore, a motion for reconsideration should not be granted "based upon an arbitrary feeling that a mistake may have been made, but should be based upon specific factual matters set forth in the records and susceptible to review." Stewart Bonded Warehouse, Inc. v. Bevis, 294 So. 2d at 317.

In Diamond Cab Co. v. King, 146 So. 2d 889 (Fla. 1962), the Court stated:

> The purpose of a petition for rehearing is merely to bring to the attention of the trial court, or in this instance, the administrative agency, some point which it overlooked or failed to consider when it rendered its order in the first instance. . . . It is not intended as a procedure for re-arguing the whole case merely because the losing party disagrees with the judgment or order . . . . 146 So. 2d 889 at 891.

Furthermore, the Court explained that it is not necessary to respond to every argument and fact raised by each party, stating:

> An opinion should never be prepared merely to refute the arguments advanced by the unsuccessful litigant. For this reason it frequently occurs that an opinion will discuss some phases of a case, but will not mention others. Counsel should not from this fact draw the conclusion that the matters not discussed were not considered.
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> It is not the purpose of these remarks to discourage the filing of petitions for rehearing in those cases in which they are justified. If we have, in fact, inadvertently overlooked something that is controlling in a case we welcome an opportunity to correct the mistake. But before filing a petition for rehearing a member of the bar should, as objectively as his position as an advocate will permit, carefully analyze the law as it appears in his and his opponent's brief and the opinion of the court, if one is filed. It is only in those instances in which this analysis leads to an honest conviction that the court did in fact fail to consider (as distinguished from agreeing with) a question of law or fact which, had it been considered, would require a different decision, that a petition for rehearing should be filed. Id.

QCC's Motion for Reconsideration

In its Motion, QCC is seeking reconsideration of our Final Order. QCC asserts that we reversed decisions made in previous orders, with regards to subject matter jurisdiction and authority to order refunds if we found violations of applicable statutes.[4] QCC claims that we overlooked or failed to consider several critical points of fact and law:

[4] The previous orders include the following: Order No. PSC-10-0296-FOF-TP, Order Granting Partial Motion to Dismiss, Motion to Dismiss Reparations Claim and Denying Motion for Summary Final Order, issued May 7, 2010 (May 7, 2010, Order), Order No. PSC-11-0145-FOF-TP, Final Order Denying Movants' Motion to Dismiss, March 2, 2011 (March 2, 2011, Order), Order No. PSC-11-0222-FOF-TP, Order Denying Reconsideration, issued May 16,

- Reversal of a previous decision regarding jurisdiction deprived QCC of the opportunity to argue its case under the law we ultimately determined to apply.

- Substantial and unrefuted record evidence that the CLECs' access rates were anticompetitive.

- Substantial record evidence that QCC was similarly situated to AT&T, and that the CLECs failed to submit contradicting evidence.

- Terms of BullsEye's and TWTC's price list required the CLECs to make the lower switched access rates provided to AT&T available to similarly situated IXCs, such as QCC.

- Previous determination of our authority to order refunds to remedy discriminatory and anticompetitive conduct should have resulted in our affirming said decision in the Final Order.

QCC asserts that it meets the standard of reconsideration, arguing that by denying QCC's Complaint we overlooked or failed to consider several key points of fact and law.

Our Authority

QCC believes that our decision in the Final Order reversed a previous decision in the September 28, 2011, Order regarding our authority to enforce repealed Sections 364.08 and 364.10, F.S. QCC argues that this was in contravention of Rule 25-22.060, F.A.C., requiring a Motion for Reconsideration of a final order be filed within 15 days of the order's issuance and asserts that no party filed a motion for reconsideration of the September 28, 2011, Order.

QCC contends that our decision in the September 28, 2011, Order was binding on the issue of subject matter jurisdiction. QCC argues that we previously held that we continued to have jurisdiction over QCC's claim for conduct prior to July 1, 2011, but notes that we left open the question regarding jurisdiction to enforce QCC's claims for conduct occurring after July 1, 2011. QCC argues that we are bound by the doctrine of *res judicata,* and that we improperly rejected our prior decision in this case. QCC further argues that our reversal denied QCC the opportunity to properly present its claims.

Anticompetitive pricing

QCC believes that we overlooked important, unrefuted evidence in the record in concluding that no anticompetitive conduct occurred. QCC takes issue with the fact that we did not find evidence of anticompetitive behavior by the CLECs toward QCC. QCC reiterated its witnesses provided evidence in testimony. QCC argues that, although the law does not require

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2011 (May 16, 2011, Order), and Order No. PSC-11-0420-PCO-TP, Order Denying Motion to Dismiss, issued September 28, 2011 (September 28, 2011, Order).

us to identify every fact or argument that we considered in rendering our decision, "the Commission should have and would have reached a different conclusion" if we had considered its evidence. QCC requests that we grant its Motion and find in favor of QCC that the CLECs' conduct was unlawfully discriminatory and anticompetitive.

Similarly Situated/Price List

QCC disagrees with our finding that BullsEye and TWTC complied with the provisions of their respective price lists. QCC contends that Florida law imposes a duty to avoid discriminatory and anticompetitive behavior by the CLEC. Although QCC acknowledges that there are no regulatory requirements in Florida that individual agreements be filed or otherwise made public, QCC believes that we overlooked significant evidence it presented regarding why QCC was prevented from obtaining the discounts for itself. QCC argues that we failed to consider how BullsEye could determine that QCC was not similarly situated without holding discussions with QCC. QCC further argues that both BullsEye and TWTC have an obligation to affirmatively make available pricing terms to other similarly situated carriers. QCC contends that we overlooked the failure of both BullsEye and TWTC to provide QCC the opportunity to prove that it was similarly situated or otherwise negotiate non-discriminatory rates. QCC therefore requests that we reconsider and reverse our decision in the Final Order.

QCC contends that our decision on whether QCC was similarly situated is unsupported by the record evidence and contradicts Florida law. QCC further argues that we failed to consider the critical role cost differences play under Florida law when assessing whether differentiated pricing is reasonable, notwithstanding that no statutes, regulations, or orders require a CLEC switched access to be based on cost.

QCC contends that we incorrectly identified the issue in this case to be whether the CLECs' decision to deviate from the published rates in favor of AT&T was lawful instead of the correct issue of whether the switched access rates in the CLECs' price lists were properly set. QCC argues that there is no evidence in the record demonstrating a difference in cost.

QCC believes that we clearly failed to consider QCC's substantial and uncontested evidence as it relates to 1) determining whether CLEC-provided switched access is a bottleneck service, and 2) that price lists do not vary switched access rates based on the volume of switched access minutes purchased. QCC requests that we find that there is no relevant basis to distinguish the two carriers for the purposes of determining whether the lower access rate that the Respondent CLECs charged AT&T was discriminatory to QCC.

Damages

QCC asserts that we reversed our prior decision, arguing that we previously found that we have the authority to order QCC's refunds to remedy past discrimination and anticompetitive concerns. QCC contends that our decision that we no longer have authority to issue refunds

based on QCC's reliance of the repealed statutes was a reversal of our previous decision and, therefore, was a mistake of law that should be reconsidered.

Finally, QCC argues that reconsideration would be consistent with our prior rulings, where we affirmed our authority to award refunds as necessary to address discriminatory and anticompetitive behavior. QCC affirms that the relief it seeks is the difference in the access rates it paid and the lower rates paid by AT&T. In particular, QCC contends that we have the authority to award such a difference, citing to case law that provides the ability to resolve questions of overcharges and award refunds of overcharges. Charlotte County v. General Dev. Util. Inc., 653 So. 2d 1081, 1085 (Fla. 1st DCA 1995) and Florida Power Corp v. Zenith Indus., 377 So. 2d 203 (Fla. 2nd DCA 1979).

BullsEye and TWTC's Responses to Motion

In their Responses, both BullsEye and TWTC argue that QCC does not meet the standard for reconsideration, asserting that: QCC reargues points already considered by us and that QCC cites to no record evidence or law that was overlooked or not duly considered in the Final Order. BullsEye and TWTC further argue that QCC does not meet the appropriate standard of review, noting that the Court in Stewart Bonded determined that a motion for reconsideration should not be granted "based upon an arbitrary feeling that a mistake may have been made, but should be based upon specific factual matters set forth in the record and susceptible to review."[5] TWTC asserts that re-argument of matters already addressed and considered by us, should not be considered in a Motion for Reconsideration. BullsEye cites to an earlier filing by QCC, where QCC states that "a motion for reconsideration is not intended as a procedure for reargument of a case merely because the losing party disagrees with the judgment or order, or an excuse to reargue matters that already have been considered by the Commission."[6]

BullsEye and TWTC argue that we rendered the correct decisions on the following points raised in QCC's Motion for Reconsideration:

- We lack authority to resolve QCC's complaint under former sections 364.08(1) and 364.04(1) and (2), F.S.
- QCC failed to demonstrate the CLECs engaged in anticompetitive behavior.
- The CLECs did not violate their price lists.
- QCC was not similarly situated to AT&T.
- The relief sought by QCC does not constitute refunds.

[5] 294 So. 2d at 317.
[6] BullsEye cites QCC's Response in Opposition to the Respondents' request to reconsider Order No. PSC-11-0145-FOF-TP, filed on March 24, 2011.

Jurisdiction Due to Change in Law

BullsEye argues QCC's attempt to raise the doctrine of *res judicata* is misguided in that QCC fails to consider the actual language of our preliminary determinations on our authority to address jurisdiction and QCC's claims for relief. TWTC argues that QCC misconstrues our decision in the September 28, 2011, Order, asserting that we retained jurisdiction in the complaint because QCC's allegations also constituted allegations of anti-competitive behavior. TWTC notes that we concluded that "this Commission is vested with subject matter jurisdiction to ensure a fair and effective wholesale market, including oversight of anticompetitive practices, such as predatory pricing among telecommunications service provider."[7]

BullsEye also asserts that the Final Order is consistent with the preliminary jurisdictional decision, as set forth in the September 28, 2011, Order. BullsEye further notes that we determined that we retain jurisdiction over anti-competitive behavior and notes that the specific issues concerning jurisdiction would be determined post-hearing. BullsEye and TWTC argue that the doctrine of *res judicata* does not apply because we did not reverse or contract the holding of the September 28, 2011, Order, and that the doctrine of *res judicata* should not be considered.

Failure to Demonstrate Anticompetitive Behavior

BullsEye and TWTC assert that QCC failed to provide evidence essential to any claim of anticompetitive conduct during the hearing process. Both BullsEye and TWTC argue that QCC simply disagrees with our decision and such re-argument does not meet the standard for reconsideration. BullsEye notes that after review of the evidence and testimony presented during the hearing, we determined that there was no evidence of anticompetitive behavior by the CLECs toward QCC.

Although QCC argues that we failed to consider QCC witness testimony, TWTC points out that we discussed the issue for over six pages in the Final Order. TWTC disagrees with QCC's argument that, if we had considered QCC's witnesses, we would have reached a different conclusion. TWTC notes that we specifically stated that we had considered the testimony of QCC's witnesses, Weisman and Easton. BullsEye argues that QCC's position that we should have given more weight to its witnesses is not a basis for reconsideration. Both BullsEye and TWTC argue that QCC did not identify a single error, oversight, mistake of fact or law made by us in rendering our decision and requests that we deny QCC's Motion as it relates to the jurisdictional issues resolved in the Final Order.

Similarly Situated to AT&T/Price Lists

BullsEye argues that we fully considered and resolved any issues regarding whether QCC was similarly situated to AT&T. BullsEye further argues that QCC failed to identify any information that could alter our decision regarding BullsEye's price list and seeks to reargue its

[7] September 28, 2011, Order, Page 9.

position. TWTC contends that QCC is asking us to reweigh the evidence and reach a different conclusion than it reached in the Final Order.

TWTC notes that it was not named as a respondent to QCC's Third Claim for Relief. TWTC argues that QCC's assertion that TWTC is "obligated" to affirmatively offer contract terms to other IXCs is procedurally improper, a violation of TWTC's due process rights, and is not a basis for reconsideration. TWTC requests that we reject QCC's Motion as it relates to including TWTC to the Third Claim for Relief.

BullsEye asserts that QCC admits that the "Commission found, based on evidence in this proceeding, that QCC was not similarly situated to AT&T[.]" BullsEye argues that QCC acknowledged that we duly considered the evidence in the record, and as a result, QCC's request for reconsideration fails as no point of fact or law was overlooked or not fully considered. TWTC also asserts that QCC identified no error or oversight in our Final Order regarding our decision that QCC and AT&T were not similarly situated, that the CLECs did not engage in anticompetitive behavior, and that the CLECs abided by their price lists. BullsEye and TWTC request that we deny QCC's Motion and reaffirm that QCC is not similarly situated.

Damages

BullsEye notes that we determined in the May 7, 2010, Order that we do not have authority to award damages and held that "to the extent that QCC is requesting monetary damages, we find it appropriate that the Partial Motion to Dismiss Claims for Reparations be granted." BullsEye also notes that that we determined that we generally have jurisdiction "to remedy regulatory overcharges" through refunds. Specifically, BullsEye argues that we held that we have the authority to investigate the allegations of the complaint and to determine if any refund was due to QCC. BullsEye explains that the doctrine of *res judicata* does not apply to the issue of damages since we properly determined after the hearing that QCC sought damages rather than a refund.

TWTC contends that there is no conflict between the March 2, 2011, Order and May 7, 2010, Order referenced by QCC in its Motion and our conclusion in our Final Order. TWTC notes that we did not conclude in either Order that QCC's request for relief was appropriate, nor did we affirmatively conclude whether the request was a refund. Rather, TWTC notes we concluded that we have "broad discretion to take remedial actions, such as refunds" but that we do not have the authority to award damages. Further, BullsEye and TWTC argue that we could not, and did not, reverse or contradict the holding of previous Orders.

BullsEye argues that QCC's position that we have overlooked the legal doctrine of *res judicata* is incorrect because the Final Order is consistent with the preliminary jurisdictional decision. BullsEye asserts that all parties recognized that the specific jurisdictional issues identified in the September 28, 2011, Order remained opened for resolution in the Final Order. TWTC further asserted that we, consistent with the prior Orders, concluded that we could not provide relief in the form of the refund because QCC was not overcharged from the rates reflected in each of the CLECs' price lists. BullsEye and TWTC request that we deny QCC's Motion based on QCC's failure to identify any error in fact or law in our Final Order.

Analysis

Applying the standard of review for motions for reconsideration, QCC's Motion fails to cite to any point of fact or law which was overlooked by us in rendering our decision. Specifically, QCC's Motion fails because QCC's true issue is disagreement with our decision in the Final Order.

QCC argues that we already addressed and determined jurisdiction in a previous Order, rendering our determination in the Final Order improper. We did state in our September 28, 2011, Order that "[f]or carrier actions prior to July 1, 2011, we find continuing jurisdiction under the statutes enacted prior to the Regulatory Reform Act and we continue to have jurisdiction over predatory pricing under the new law enacted by the Regulatory Reform Act."[8] It is also true that we determined "[n]onetheless, we find that whether we retain jurisdiction prospectively would be more appropriately addressed during issue identification and examined during the hearing process."[9] Jurisdiction was also explicitly identified as an open issue by staff counsel during the Prehearing Conference. [10] Thus, the question of jurisdiction remained an open issue pending the hearing and parties' briefs.

As TWTC notes, the Final Order determined that we retained authority to address allegations in accordance with Section 364.16, F.S. The September 28, 2011, Order determined that "the Commission is vested with subject matter jurisdiction to ensure a fair and effective wholesale market, including oversight of anticompetitive practices such as predatory pricing among telecommunications service providers."[11] We find that our Final Order was consistent with our previous decisions.

QCC asserts that we did not properly consider the testimony of its experts at the hearing, which constitutes a mistake in our decision regarding anticompetitive behavior. As BullsEye and TWTC note, we did consider the testimony of QCC's witnesses. In the Final Order, we based our decision on the parties' testimony, the facts on record, and testimony from all witnesses, including QCC's witnesses, Weisman and Easton, stating that "based on the testimony of the witnesses and on the fact there are no statutes, Commission regulations, or Commission orders that ever required CLEC switched access rates to be based on cost, nor any that declared CLEC switched access a monopoly service, QCC has failed to demonstrate that it is similarly situated to AT&T."[12] Therefore, we simply determined that QCC's evidence did not support its arguments that it was similarly situated to AT&T. QCC's assertion that we did not properly acknowledge QCC's witnesses' testimonies is not supported by the discussion in the Final Order and thus cannot be the basis for an alleged mistake of fact.

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[8] September 28, 2011, Order at 9.
[9] Id at 9.
[10] September 8, 2011, Prehearing Transcript at 23.
[11] September 28, 2011, Order at 9.
[12] Final Order at 18.

In rendering our decision, we considered, either explicitly or implicitly, each of the items that QCC alleges were not addressed. Furthermore, it is not necessary for us to address every argument and fact raised by each party in our Final Order.[13]

We find that QCC improperly raises a new argument that TWTC should be responsible for its price list after the 2011 change in the law. The Final Order reflected that QCC stipulated that TWTC was not included on price list issues after the 2011 change in law because the TWTC/AT&T price list expired in November 2008.[14] Therefore, any additional argument that TWTC should have an obligation to offer a different price to QCC is not a mistake of fact or law by us.

In the May 20, 2010, Order, we held that we do not have the authority to award damages but do have the authority to order refunds as remedy for overcharges. We found no anticompetitive behavior by CLECs in this matter, thus refunds were not appropriate. Furthermore, based on the evidence presented, we found that even if anticompetitive behavior had been determined, QCC's request for relief was in the nature of damages. As we have consistently held, we cannot award damages. Therefore we properly determined that QCC's request could not be granted.

Decision

For the reasons set forth above, we find QCC's Motion fails to identify any point of fact or law that was overlooked or that we failed to consider in rendering our Final Order. QCC is not asking us to look at newly discovered evidence or evidence that we failed to consider in making our determination, but is instead asking us to review and reweigh evidence, which is not a proper basis for reconsideration. We find that our Final Order is consistent with our previous decisions. QCC has not met the standard of review for its Motion. Therefore, we find it appropriate to deny Qwest Communications Company, LLC d/b/a CenturyLink QCC's Motion for Reconsideration of Order No. PSC-13-0185-FOF-TP.

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[13] In re: Petition for arbitration of certain terms and conditions of an interconnection agreement with Verizon Florida, LLC by Bright House Networks Information Services (Florida), LLC, Order No. PSC-11-0141-FOF-TP, issued March 1, 2011; in Docket 090501-TP; In re: Complaint and request for emergency relief against Verizon Florida, LLC for anticompetitive behavior in violation of Sections 364.01(4), 364.3381, and 364.10, F.S., and for failure to facilitate transfer of customers' numbers to Bright House Networks Information Services (Florida), LLC, and its affiliate, Bright House Networks, LLC. and In re: Complaint and request for emergency relief against Verizon Florida, L.L.C. for anticompetitive behavior in violation of Sections 364.01(4), 364.3381, and 364.10, F.S., and for failure to facilitate transfer of customers' numbers to Comcast Phone of Florida, L.L.C. d/b/a Comcast Digital Phone., Order No. PSC-08-0549-PCO-TP, issued August 19, 2008, in Docket Nos. 070691-TP and 080036-TP, quoting Jaytex, 105 So.2d at 819.

[14] QCC did not name TWTC in its Amended Complaint's Third Claim for Relief.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Qwest Communications Company, LLC d/b/a CenturyLink QCC's Motion for Reconsideration of Order No. PSC-13-0185-FOF-TP, is denied for the reasons stated above. It is further

ORDERED that this docket shall be closed when the time for appeal has run.

By ORDER of the Florida Public Service Commission this 28th day of August, 2013.

ANN COLE
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
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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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, 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 and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.