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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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| In re: Proposed Rule 25-24.845, F.A.C., Customer Relations; Rules Incorporated, and proposed amendments to Rules 25-4.003, F.A.C., Definitions; 25-4.110, F.A.C., Customer Billing; 25-4.118, F.A.C., Interexchange Carrier Selection; 25-24.490, F.A.C., Customer Relations; Rules Incorporated. | DOCKET NO. [redacted]-TI<br>FILED: 10/13/97 |

**NONPARTY NOTICE OF GENERAL OBJECTION**

Integrated TeleServices, Inc., d/b/a ITS Corp.) ("ITS") by its undersigned attorney, hereby serves Notice of General Objection to First Requests for Production of Documents by the Attorney General and the Citizens to ITS Corporation. The grounds for this objection are as follows:

**GENERAL OBJECTIONS: PART I**

The Attorney General and the Office of the Public Counsel (hereafter "Attorney General/OPC") served the production requests pursuant to Rules 25-22.34 and 25-22.35 Florida Administrative Code and Rule 1.350, Florida Rules of Civil Procedure. ITS received the production requests on or about October 2, 1997.

Discovery through production requests may be made by a party pursuant to Rule 1.350, Florida Rules of Civil Procedure, which states in pertinent part as follows:

> Any party may request any other party (1) to produce . . . documents . . . .

There is no provision under Commission rules or under the Rules of Civil Procedure that allows either a party or non-party to discover documents of a non-party through productions re[redacted]

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Based on Order No. PSC-97-1071-PCO-TI, neither ITS nor the Attorney General/OPC is a party within the meaning of the rules of civil procedure. Focusing on ITS's status exclusively, ITS has not attempted to intervene in this proceeding. Indeed, if ITS had attempted to intervene and the Commission followed past practice, such intervention would have been denied on the ground that party status is inappropriate for rule proceedings, which are legislative in nature. In addition, nothing in that order attempts to confer party status on any entity.

Order No. PSC-97-1071-PCO-TI denies the Attorney General/OPC's drawout request, which would have converted the proceeding from legislative to adjudicative. Nevertheless, the Order states that ". . . the rulemaking hearing is modified to include discovery and prefiled testimony." Assuming for a moment that the Commission can create a right of discovery in a rule proceeding in this manner, such discovery remains pursuant to the Rules of Civil Procedure and available only to parties against one another.

Moreover, the Commission cites no authority for the proposition that it can create its own process for rulemaking by picking and choosing among formal procedures employed in a drawout pursuant to Section 120.54(3)(c)2. The Legislature has delegated authority to the Commission to enact rules within certain parameters; it is not clear that the Commission may "unbundle" that delegation to suit its momentary purposes.

To summarize, because ITS is a nonparty to this proceeding no participant in this proceeding may seek discovery of information by serving production requests on ITS as if it were a party. Because

ITS is not a party in this proceeding, it is not obligated to respond to the production requests of the Attorney General/OPC.

This general objection notwithstanding, ITS will respond to the specific requests as a nonparty. By so responding, ITS does not waive but rather specifically reserves objections that it might otherwise make in response to the First Requests for Production of Documents by the Attorney General/OPC; moreover, in responding to these production requests as a non-party ITS does not waive but rather reserves its right to object to future discovery that might be served on ITS in this docket. With these caveats and reservations noted, ITS intends to respond in good faith in the time period that would be applicable if it were a party.

**GENERAL OBJECTIONS: PART II**

ITS makes the following General Objections to Attorney General/OPC's First Requests for Production of Documents which will be incorporated by reference into ITS's specific response when its Documents are served on Attorney General/OPC.

1. ITS objects to the production requests to the extent that such production requests seek to impose an obligation on ITS to respond on behalf of subsidiaries, affiliates, or other persons that are not parties to this case on the grounds that such requests are overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules.

2. ITS has interpreted the Attorney General/OPC's production requests to apply to ITS's regulated intrastate operations in Florida and will limit its responses accordingly. To the extent that any production request is intended to apply to matters other

than Florida intrastate operations subject to the jurisdiction of the Commission, ITS objects to such production requests as irrelevant, overly broad, unduly burdensome, and oppressive.

3. ITS objects to each and every production request and instruction to the extent that such production request or instruction calls for information which is exempt from discovery by virtue of the attorney-client privilege, work product privilege, or other applicable privilege.

4. ITS objects to each and every production request insofar as the request is vague, ambiguous, overly broad, imprecise, or utilizes terms that are subject to multiple interpretation but are not properly defined or explained for purposes of these production requests. Any documents provided by ITS in response to Attorney General/OPC's production requests will be provided subject to, and without waiver of, the foregoing objection.

5. ITS objects to each and every production request insofar as the request is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this action. ITS will attempt to note each instance where this objection applies.

6. ITS objects to the Attorney General/OPC's production requests insofar as they seek to impose obligations on ITS which exceed the requirements of the Florida Rules of Civil Procedure or Florida law.

7. ITS objects to providing information to the extent that such information is already in the public record before the Florida Public Service Commission.

8. ITS objects to each and every production request, insofar as it calls for a response which is unduly burdensome, expensive, oppressive, or excessively time consuming as written to prepare.

9. ITS objects to each and every production request to the extent that the information requested constitutes "trade secrets" which are privileged pursuant to Section 90.506, Florida Statutes. To the extent that Attorney General/OPC's production requests request proprietary confidential business information which is not subject to the "trade secrets" privilege, ITS will make such information available to counsel for Attorney General/OPC" pursuant to an appropriate Protective Agreement, subject to any other general or specific objections contained herein.

Respectfully submitted, this 13th day of October 1997.

Integrated TeleServices, Inc., d/b/a ITS Corp.

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail this day of October 13, 1997, to the following:

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