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November 24, 1997

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## VIA HAND DELIVERY

Ms. Blanca S. Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Re: In re: Application for certificate to provide alternative local exchange telecommunications service by US LEC of Florida, Inc., Docket No. 971455-TX

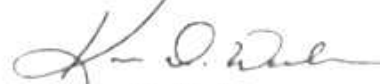
Dear Ms. Bayo:

Enclosed for filing in the docket referenced above are the original and 15 copies of US LEC of Florida Inc.'s Request for Confidential Classification of Exhibit "B" to its application for authority to provide alternative local exchange telecommunications service in the State of Florida. For our records, please acknowledge your receipt of this filing on the enclosed copy of this letter.

Thank you for your consideration in this matter.

Sincerely,

HOLLAND & KNIGHT LLP



Karen D. Walker

KDW/sms

cc: Mr. Gary Grefrath  
Ms. Mary Jo Ruffalo

TAL-120572

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FEDERAL BUREAU OF INVESTIGATION

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In Re: Application for certificate )  
to provide alternative local exchange )  
telecommunications service by )  
US LEC of Florida, Inc. )

Docket No. 971455-TX

Filed: November 24, 1997

**REQUEST FOR CONFIDENTIAL CLASSIFICATION**

US LEC of Florida, Inc. ("US LEC"), by and through undersigned counsel, pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, requests that the Florida Public Service Commission (the "Commission") classify as confidential Exhibit "B" to US LEC's application for authority to provide alternative local exchange service within the state of Florida (the "ALEC Application"). In support of its request, US LEC states:

1. US LEC is a start-up company which intends to provide facilities based interexchange and alternative local exchange telecommunications service within the state of Florida. US LEC filed its ALEC Application with the Commission on November 5, 1997. On that same date, US LEC filed, under seal, Exhibit "B" to its ALEC Application along with a Notice of Intent to Request Confidential Classification of Exhibit "B."

2. Section 364.337, Florida Statutes, states that: "The [C]ommission shall grant a certificate of authority to provide alternative local exchange service upon a showing that the applicant has sufficient technical, financial, and managerial capability to provide such service in the geographic area proposed to be served. . . ." § 364.337(3), Fla. Stat. (1995) (emphasis added). Thus, US LEC is required to show that it has the

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financial capability to provide alternative local exchange service in Florida before the Commission can grant it a certificate of authority to provide such service.

3. US LEC is qualified financially to provide high quality alternative local exchange service in Florida. However, because US LEC is a start-up company, US LEC's available historical financial information is limited.

4. Exhibit "B" to US LEC's ALEC Application contains US LEC's currently available financial information. Exhibit "B" is a document showing US LEC's financial projections for Florida through the year 2007.

5. Exhibit "B" to US LEC's ALEC Application was filed with the Commission on November 5, 1997 under seal and under cover of a Notice of Intent to Request Confidential Classification pursuant to Rule 25-22.006, Florida Administrative Code. This request is being filed within 21 days of the date that Exhibit "B" and US LEC's Notice of Intent to Request Confidential Classification of Exhibit "B" were filed with the Commission. Through this request, US LEC seeks to maintain the continued confidential handling of Exhibit "B" to its ALEC Application.

6. Exhibit "B" is intended to be, and has been treated by US LEC, as private and has not been disclosed unless disclosed pursuant to a statutory provision, order of a court or administrative body, or private agreement that provides that the information in Exhibit "B" will not be released to the public.

7. Exhibit "B" is entitled to confidential classification pursuant to Section 364.183(1), Florida Statutes, and is exempt from Section 119.07(1), Florida Statutes,

and Article I, Section 24(a) of the Florida Constitution. Section 364.183(3) defines "proprietary confidential business information" as:

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.

§ 364.183(1), Fla. Stat. (Supp. 1996). Section 364.183(3) further provides that "proprietary confidential business information" includes "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information." § 364.183(3)(e), Fla. Stat. (Supp. 1996).

8. Exhibit "B" to US LEC's ALEC Application constitutes "proprietary confidential business information" within the meaning of that term as described in Section 364.183(3). Exhibit "B" describes US LEC's anticipated operating revenues, operating expenses, net income, and cash flow through the year 2007. Public disclosure of Exhibit "B" would allow competitors to have access to information about the financial resources and stability of US LEC and US LEC's plans for future growth and development. Accordingly, public disclosure of Exhibit "B" would irreparably harm US LEC.<sup>1</sup>

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<sup>1</sup> The Commission has recognized that disclosure of financial projections could provide information from which a company's competitors could anticipate actions to be taken by the company, and therefore, could give the company's competitors a competitive advantage. See In re: 1991 Depreciation Study for UNITED TELEPHONE COMPANY OF FLORIDA, 92 F.P.S.C. 7:139, Docket No. 910725-TL, Order No. PSC-92-0619-CFO-TL (July 7, 1992).

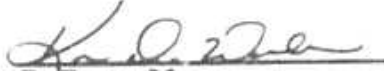
9. Attached hereto in a sealed envelope is a copy of Exhibit "B" to US LEC's ALEC Application for which confidential classification is requested. Also attached hereto are two edited copies of Exhibit "B" on which the confidential material has been redacted. Because all of Exhibit "B" is confidential, with the exception of the heading and the years to which the document pertains, there is no basis for articulating a line-by-line justification for the confidential treatment of information. US LEC, however, has summarized the confidential information contained in Exhibit "B" in this Request for Confidential Classification.

10. Because Exhibit "B" contains confidential information relating to US LEC's financial projections through 2007, the information in Exhibit "B" will continue to be "proprietary confidential business information" until at least January 1, 2008.

11. US LEC has good cause and justification for its request, and continued confidentiality of Exhibit "B" will not prejudice the Commission, or any other persons or entities that may become parties to this docket. Moreover, US LEC will make Exhibit "B" available upon execution of an appropriate protective agreement.

WHEREFORE, US LEC respectfully requests that the Commission determine that Exhibit "B" is confidential and exempt from the Public Records Act, Chapter 119, Florida Statutes, and Article I, Section 24(a) of the Florida Constitution.

Respectfully submitted,

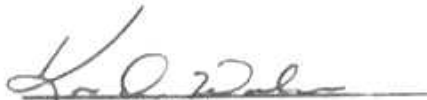


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Florida Bar No. 354473  
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(850) 224-7000

Attorneys for US LEC of Florida, Inc.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY THAT a true and correct copy of the foregoing was furnished by hand delivery to Kimberly Pena, Division of Legal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850 and by U.S. Mail to Jack Shreve, Office of Public Counsel, 111 W. Madison Street, Suite 812, Tallahassee, Florida 32399 this 24th day of November, 1997.



Karen D. Walker