

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Implementation of requirements
Arising from Federal Communications
Commission Triennial UNE review: Local
Circuit Switching For Mass Market Customers

Docket No. 030851-TP

Filed: October 20, 2003

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**OBJECTIONS OF NETWORK TELEPHONE CORPORATION TO
BELLSOUTH'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (1-21)**

Pursuant to the *Order Establishing Procedure*, Order No. PSC-03-1054-PCO-TP, issued September 22, 2003 ("*Procedural Order*"), Rule 28-106.206 of the Florida Administrative Code, and Rules 1.280 and 1.340 of the Florida Rules of Civil Procedure, Network Telephone Corporation ("Network Telephone") submits its preliminary objections to BellSouth Telecommunications, Inc.'s ("BellSouth") First Request for Production of Documents to Network Telephone.

Network Telephone files these objections to comply with the seven (7) day requirement set forth in the *Procedural Order*. These objections are preliminary in nature. Should additional grounds for objection be discovered as Network Telephone prepares its responses to any discovery, Network Telephone reserves the right to supplement these objections.

Further, at the time of the filing of these objections, the issues to be addressed in this proceeding have not yet been identified. Should additional grounds for objections develop as the Commission identifies the issues to be addressed in this proceeding, Network Telephone reserves the right to supplement these objections.

GENERAL OBJECTIONS

Network Telephone makes the following general objections to the Requests:

1. Network Telephone objects to the "Definitions" section, the "General Instructions," and the individual request items of BellSouth's First Requests for Production of

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Documents to Network Telephone to the extent that they are overly broad, unduly burdensome, and/or oppressive. Network Telephone will attempt to identify specific requests to which this objection applies within the specific objections that follow.

2. Network Telephone objects to the “Definitions,” the “General Instructions,” and the individual request items to the extent they are irrelevant and not likely to lead to the discovery of admissible evidence. By way of illustration and not limitation, Network Telephone objects to requests that seek materials and documents that are inconsistent with or unrelated to the parameters and methodology of the impairment analysis prescribed by the FCC in its Triennial Review Order. Network Telephone will attempt to identify individual requests to which this general objection is applicable within the specific objections that follow.

3. Network Telephone objects to the “Definitions,” the “General Instructions,” and the request items to the extent they are vague, ambiguous, imprecise, or utilize terms that are subject to multiple interpretations but are not properly defined or explained for purposes of these Requests.

4. Network Telephone objects to the “General Instructions” and the request items of BellSouth’s First Set of Requests for Production to Network Telephone to the extent that they purport to impose discovery obligations on Network Telephone that exceed the scope of discovery allowed by the applicable Florida Rules of Civil Procedure.

5. Network Telephone objects to the “General Instructions” section and the individual request items of BellSouth’s First Requests for Production to Network Telephone to the extent that the “instructions” purport to seek disclosure of “all” documents, materials or information in Network Telephone’s possession. Network Telephone’s responses will provide all nonprivileged and otherwise discoverable information obtained by Network Telephone after a

reasonable and diligent search conducted in connection with the Requests. Such search will include a review of only those files that are reasonably expected to contain the requested documents and/or information. To the extent that “instructions” or individual requests require more, Network Telephone objects on the grounds that compliance would be unduly burdensome, expensive, oppressive, or excessively time consuming, and unnecessary to accomplish BellSouth’s legitimate discovery needs.

6. Network Telephone objects to BellSouth’s First Requests for Production to the extent that the requests seeks discovery of materials and/or information protected by attorney/client privilege, the work product doctrine, the accountant/client privilege, or any other applicable privilege.

7. Network Telephone objects to BellSouth’s First Set of Requests for Production to the extent that the requests would require disclosure of information that constitutes trade secrets and/or confidential and proprietary information that should be disclosed either not at all or only pursuant to the terms of a mutually acceptable confidentiality agreement and use of the Commission’s rules and orders governing confidentiality

8. Network Telephone objects to all requests which would require the production of materials and/or information which is already in BellSouth’s possession or is in the public record before the Commission. To duplicate information that BellSouth already has or is readily available to BellSouth would be unduly burdensome and oppressive.

9. Network Telephone objects to BellSouth’s First Request for Production to the extent BellSouth seeks to impose an obligation on Network Telephone to respond on behalf of subsidiaries and/or former officers, employees, agents, and directors on the grounds that such

requests for production are overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules.

10. Network Telephone will interpret each request as relating to Florida intrastate operations within BellSouth's service areas. To the extent any requests are not intended to relate to Florida intrastate operations within BellSouth's Florida service area, Network Telephone objects to such requests as overbroad, irrelevant, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

11. Network Telephone objects to the use of the terms "qualifying service" and "nonqualifying service" on the grounds the terms are subject to differing interpretations.

SPECIFIC OBJECTIONS TO REQUESTS

Network Telephone hereby incorporates the above general objections by reference. To the extent possible within the expedited seven-day time frame for the filing of preliminary objections, Network Telephone will attempt to identify individual items that are subject to objection. Network Telephone reserves the right to add or enlarge upon these objections when Network Telephone files its responses.

REQUEST NO. 1: Produce all documents identified in response to BellSouth's First Set of Interrogatories.

OBJECTION: Network Telephone objects to the extent No. 1 seeks confidential and proprietary documents. Network Telephone also incorporates by reference its Objections to the First Set of Interrogatories.

REQUEST NO. 2: Produce every business case in your possession, custody or control that evaluates, discusses, analyzes or otherwise refers or related to the offering of a qualifying service in the State of Florida.

OBJECTION: Network Telephone objects to No. 2 on the grounds that it seeks discovery of documents that, inasmuch as the FCC ruled the state commissions' impairment analyses are not to be based on individual carriers' business cases, are unrelated to the analysis the Commission will conduct, are irrelevant to the issues in the case, and not reasonably calculated to lead to the discovery of admissible evidence. Network Telephone also objects on the grounds the request seeks the disclosure of confidential and proprietary business information.

REQUEST NO. 3: Produce all documents referring or relating to the average monthly revenues you receive from end users customers in Florida to whom you only provide qualifying service.

OBJECTION: Network Telephone objects to Request No. 2 on the grounds that the request seeks documents that are unrelated to the analysis of impairment prescribed by the FCC and irrelevant to the issues in this case, and not reasonably calculated to lead to the discovery of admissible evidence. Network Telephone objects on the grounds the request seeks the disclosure of confidential and proprietary information. Network Telephone objects to No. 3 on the grounds that the request to produce "all documents" relating to the average monthly revenues is oppressive and unduly burdensome.

REQUEST NO. 4: Produce all documents referring or relating to the average number of access lines you produce to end user customers in Florida to whom you only provide qualifying service.

OBJECTION: Network Telephone objects to no. 4 on the grounds the request to provide all documents is onerous, unduly burdensome, and goes far beyond any legitimate discovery needs. Network Telephone will provide the data run on which the calculation is based. Network Telephone also objects on the basis the information is proprietary and confidential.

REQUEST NO. 8: Produce all documents referring or relating to the classifications used by Network Telephone Corporation to offer service to end user customer Florida (e.g., residential customers, small business customers, mass market customers, enterprise customers, or whatever type of classification that you use to classify your customers).

OBJECTION: Network Telephone objects to No. 8 on the grounds the request for “all documents” is onerous, unduly burdensome, oppressive, and goes far beyond any legitimate discovery need. Network Telephone will provide documents reasonably sufficient to demonstrate the classifications and the basis for those classifications.

REQUEST NO. 9: Produce all documents referring or relating to the average acquisition cost for each class or type of end user customer served by Network Telephone Corporation, as requested in BellSouth’s First Set of Interrogatories, No. 34.

OBJECTION: Network Telephone objects to No. 9 on the grounds that, because they relate to Network Telephone’s individual business model, the request seeks documents that are unrelated to the impairment analysis prescribed in the Triennial Review Order, irrelevant to the issues in the case, and not reasonably calculated to lead to the discovery of admissible evidence. Network Telephone also objects on the grounds the request seeks disclosure of confidential and proprietary business information. Network Telephone also objects to the request to produce “all” documents as overbroad, unduly burdensome, and oppressive.

REQUEST NO. 10: Produce all documents referring or relating to the typical churn for each class or type of end user customer served by Network Telephone Corporation, as requested in BellSouth’s First Set of Interrogatories, No. 35.

OBJECTION: Network Telephone objects to the request because it seeks carrier-specific information that is unrelated to and inconsistent with the impairment analysis prescribed

within the Triennial Review Order, and the requested documents are therefore irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Network Telephone also objects to the request that it provide “all” documents as overbroad and unduly burdensome. In addition, Network objects because the request seeks confidential and proprietary business information.

REQUEST NO. 11: Produce all documents referring or relating to how Network Telephone Corporation determines whether to serve an individual customer’s location with multiple DS0s or with a DS1 or larger transmission system.

OBJECTION: As stated in the general objections, which have been incorporated into each specific objection, Network objects to the request that it provide “all” documents. In addition, Network objects because the request seeks confidential and proprietary business information.

REQUEST NO. 12: Produce all documents referring or relating to the typical or average number of DS0s at which Network Telephone Corporation would choose to serve a particular customer with a DS1 or larger transmission system as opposed to multiple DS1s, all other things being equal.

OBJECTION: As stated in the general objections, which have been incorporated into each specific objection, Network objects to the request that it provide “all” documents. In addition, Network objects because the request seeks confidential and proprietary business information.

REQUEST NO. 13: Produce all documents referring or relating to the cost of capital used by Network Telephone Corporation in evaluating whether to offer a qualifying service in a particular geographic market.

OBJECTION: Network Telephone objects to the request on the grounds that, because they relate to Network Telephone’s specific business model, it requests documents that are unrelated to the impairment analysis prescribed by the FCC in its Triennial Review Order, irrelevant to the issues in the case, and not reasonably calculated to lead to the discovery of admissible evidence. Network Telephone objects to the request for “all” documents as overbroad and unduly burdensome. Network Telephone also objects on the grounds the information sought is confidential and proprietary business information.

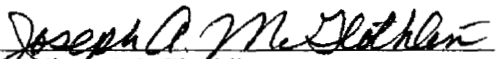
REQUEST NO. 15: Produce all documents referring or relating to your estimates of sales expense when evaluating whether to offer a qualifying service in a particular geographic market.

OBJECTION: Network Telephone objects to No. 15 on the grounds it requests documents that, because they relate to financial aspects of Network Telephone’s specific business model, are unrelated to the impairment analysis prescribed within the Triennial Review Order, irrelevant to the issues in this case, and not reasonably calculated to lead to the discovery of admissible evidence. Network Telephone objects on the grounds the request for “all” documents is overbroad and unduly burdensome. Network Telephone also objects on the grounds that the request seeks documents that are confidential and proprietary business information.

REQUEST NO. 16: Produce all documents referring or relating to your estimates of general and administrative (G&A) expenses when evaluating whether to offer a qualifying service in a particular geographic market.

OBJECTION: Network Telephone objects to No. 16 on the grounds that it seeks documents that, because they relate to Network Telephone’s specific business model, are

unrelated to the prescribed impairment analysis, irrelevant to the issues in the case, and not reasonably calculated to lead to the discovery of admissible evidence. Network Telephone also objects on the grounds the request seeks the disclosure of confidential and proprietary business information. Further, the request for “all” documents is overbroad and unduly burdensome.


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Objections of Network Telephone Corporation to BellSouth's First Set of Interrogatories has been provided by (*) hand delivery, (**) email and U.S. Mail this 20th day of October 2003, to the following:

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