

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Implementation of requirements arising  
From Federal Communications Commission  
Triennial Review: Location Specific-Review  
For DS1, DS3, and Dark Fiber Loops and  
Route-Specific Review for DS1, DS3, and  
Dark Fiber Transport

Docket No. 030852-TP

Filed: November 6, 2003

COMMISSION  
CLERK

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**PRELIMINARY OBJECTIONS OF Z-TEL COMMUNICATIONS, INC. TO  
BELLSOUTH'S SECOND SET OF INTERROGATORIES  
AND  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

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, Z-Tel Communications, Inc. ("Z-Tel") submits its preliminary objections to BellSouth Telecommunications, Inc.'s ("BellSouth") Second Set of Interrogatories to Z-Tel and BellSouth's First Request for Production of Documents to Z-Tel.

Z-Tel 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 Z-Tel prepares its responses to any item of discovery contained within the Second Set of Interrogatories or the First Request for Production of Documents, Z-Tel 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 established. Should additional grounds for objections develop as the Commission identifies the issues to be addressed in this proceeding, Z-Tel reserves the right to supplement these objections.

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## PRELIMINARY OBJECTIONS

Z-Tel makes the following preliminary objections to the Second Set of Interrogatories and the First Request for Production of Documents. The objections will be incorporated into the individual responses to the interrogatories and requests as appropriate.

1. Z-Tel objects to the “Definitions” section, the “General Instructions,” and the individual items of BellSouth’s Second Set of Interrogatories and First Requests for Documents to Z-Tel to the extent that they are overly broad, unduly burdensome, oppressive, and/or excessively time consuming.

2. Z-Tel objects to the “Definitions,” the “General Instructions,” and the individual interrogatories and requests to the extent they seek information that is irrelevant and are not reasonably calculated to lead to the discovery of admissible evidence. By way of illustration and not limitation, Z-Tel objects to interrogatories and requests that seek information that is unrelated to or inconsistent with the methodology and parameters of the analysis of impairment prescribed by the FCC in its Triennial Review Order.

3. Z-Tel objects to the “Definitions,” the “General Instructions,” and the individual interrogatories and requests for documents 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. Z-Tel objects to the “General Instructions” and the items of BellSouth’s

Second Set of Interrogatories and First Requests for Documents to Z-Tel to the extent that they purport to impose discovery obligations on Z-Tel that exceed the scope of discovery allowed by the applicable Florida Rules of Civil Procedure.

5. Z-Tel objects to BellSouth's Second Set of Interrogatories and First Requests for Documents to Z-Tel to the extent that the interrogatories and requests seek discovery of materials and/or information protected by the attorney/client privilege, the work product doctrine, the accountant/client privilege, or any other applicable privilege.

6. Z-Tel objects to BellSouth's Second Set of Interrogatories First Requests for Documents to the extent that the interrogatories and requests would require disclosure of information that constitutes trade secrets and/or confidential, proprietary business information, which either should not be disclosed at all or should be disclosed (provided the information is otherwise discoverable) only pursuant to the terms of a mutually acceptable confidentiality agreement and use of the Commission's rules and procedures relating to confidential and proprietary information.

7. Z-Tel objects to all interrogatories and requests which would require Z-Tel to provide information which is already in BellSouth's possession or is in the public record before the Commission. To require Z-Tel to duplicate information that BellSouth already has or is readily available to BellSouth would be unduly burdensome and oppressive.

8. Z-Tel objects to BellSouth's Second Set of Interrogatories and First Requests for Documents to the extent BellSouth seeks to impose an obligation on Z-Tel to respond on behalf of affiliates 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.

9. Z-Tel will interpret each interrogatory and each request for documents as relating to intrastate Florida operations within BellSouth's service area. To the extent any interrogatories or requests for documents are not intended to relate to Florida intrastate operations within BellSouth's Florida service area, Z-Tel objects to such interrogatories as overbroad, unduly burdensome, irrelevant to the issues before the Commission, and not reasonably calculated to lead to the discovery of admissible evidence.

10. Z-Tel objects to any interrogatories or requests for documents that are not limited in time or are not limited to a time period that is relevant to the issues before the Commission and/or reasonably related to BellSouth's legitimate discovery needs.

11. Z-Tel objects to the use of the terms "qualifying service" and "nonqualifying service" on the grounds the terms are subject (with the exception of services specifically mentioned in the FCC's rule) to differing interpretations.

12. Z-Tel objects to requests to identify or produce "all," "every", or "any" documents as overbroad and unduly burdensome.

13. Request No. 4 states:

4. Provide any business case from 2000 to present in your possession, custody, or control that evaluates, discusses, analyzes or otherwise refers or relates to your obtaining high capacity transport and/or loop facilities from other persons.

Z-Tel objects to Request No.4 on the grounds it seeks irrelevant documents and is not reasonably calculated to lead to the discovery of admissible evidence. Z-Tel objects on the grounds the request seeks proprietary and confidential business information.

Z-Tel objects on the grounds that Request No. 4 is vague, ambiguous, overbroad, and unduly burdensome.



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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing Preliminary Objections of Z-Tel Communications, Inc. to BellSouth Telecommunications, Inc.'s Second Set of Interrogatories and First Request For Production of Documents has been provided by (\*) hand delivery, (\*\*) email and U.S. Mail this 6th day of November 2003, to the following:

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