



ORIGINAL

November 6, 2003

Ms. Blanca S. Bayo  
Director, Division of the Commission  
Clerk and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

via Overnight Mail

COMMISSION  
CLERK

03 NOV - 7 AM 10: 26

RECEIVED-FPSC

Re: Docket No. 030852-TP Implementation of Requirements Arising from FCC  
Triennial UNE Review: Location-Specific Review for DS1, DS3 and Dark Fiber  
Loops, Route-Specific Review for DS1, DS3 and Dark Fiber Transport

Dear Ms. Bayo:

Enclosed please find an original and seven (7) copies of FDN Communications'  
Objections to BellSouth Telecommunications, Inc.'s Second Set of Interrogatories  
(Nos. 14-26) and First Set of Document Production Requests (Nos. 1-5).

If you have any questions regarding the enclosed, please call me at 407-835-0460.

Sincerely,

Matthew Feil  
General Counsel  
FDN Communications

JS  
AF  
MP  
JM  
FR  
SR  
CL  
PC  
MS  
EC  
TH

LOCAL

LONG DISTANCE

390 North Orange Avenue Suite 2000 Orlando, FL 32801  
407.835.0300 Fax 407.835.0309 www.fdn.com

DOCUMENT NUMBER-DATE

11125 NOV-7 03

FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Implementation of Requirements )  
Arising from FCC Triennial UNE Review: )  
Location-Specific Review for DS1, DS3 ) Docket No. 030852-TP  
and Dark Fiber Loops, Route-Specific )  
Review for DS1, DS3 and Dark Fiber )  
Transport )  
\_\_\_\_\_ )

**FDN COMMUNICATION'S OBJECTIONS TO  
BELLSOUTH TELECOMMUNICATIONS, INC.'S SECOND SET OF  
INTERROGATORIES (NOS. 14-26) AND FIRST SET OF DOCUMENT  
PRODUCTION REQUESTS (NOS. 1 – 5)**

Florida Digital Network, Inc., d/b/a FDN Communications ("FDN"), pursuant to Rule 28-106.206, Florida Administrative Code and Rules 1.340 and 1.280, Florida Rules of Civil Procedure, hereby submits the following Objections to BellSouth Telecommunications, Inc.'s Second Set of Interrogatories (Nos. 14 - 26) and First Set of Document Requests (Nos 1-5) served October 30, 2003.

The objections stated herein are preliminary in nature and are made at this time to comply with the 7-calendar day requirement set forth in Order No. PSC-03-1055-PCO-TP issued on September 22, 2003, by the Florida Public Service Commission ("Commission"). Should additional grounds for objection be discovered as FDN prepares its answers to the above-referenced Interrogatories, FDN reserves the right to supplement, revise, or modify its objections at the time it serves its responses.

**GENERAL OBJECTIONS**

1. FDN objects to each Interrogatory to the extent that it seeks to impose an obligation on FDN to respond on behalf of subsidiaries, affiliates, or other persons that

DOCUMENT NUMBER-DATE

11125 NOV-7 8

FPSC-COMMISSION CLERK

are not parties to this case on the grounds that such Interrogatory is overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules.

2. FDN objects to each Interrogatory to the extent that it is intended to apply to matters other than those directly at issue in this proceeding. FDN objects to each such Interrogatory as being irrelevant, overly broad, unduly burdensome, and oppressive.

3. FDN objects to each Interrogatory to the extent that it requests information that is exempt from discovery by virtue of the attorney-client privilege, work product privilege, or other applicable privilege.

4. FDN objects to each Interrogatory to the extent that it is vague, ambiguous, overly broad, imprecise, or to the extent that it utilizes terms that are subject to multiple interpretations but are not properly defined or explained for purposes of these Interrogatories. Answers, if any, provided by FDN in response to these Interrogatories will be provided subject to, and without waiver of, the foregoing objection.

5. FDN objects to each Interrogatory to the extent that it is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this action. FDN will attempt to note in here and/or in its responses each instance where this objection applies.

6. FDN objects to providing information to the extent that such information is already in the public record before the Commission or in the possession of the party propounding the discovery.

7. FDN objects to each Interrogatory to the extent that it seeks to impose obligations on FDN that exceed the requirements of the Florida Rules of Civil Procedure or Florida Law.

8. FDN objects to each Interrogatory to the extent that responding to it would be unduly burdensome, expensive, oppressive, or excessively time consuming.

9. FDN objects to each Interrogatory to the extent that it is not limited to any stated period of time and, therefore is overly broad and unduly burdensome.

10. FDN is a small corporation with employees located in different locations in Florida. In the course of its business, FDN creates documents that are not subject to Commission or FCC retention of records requirements. These documents may be kept in different locations and may be moved from site to site as employees change jobs or as the business is reorganized. Therefore, it is possible that not every document will be identified in response to these requests. To the extent an Interrogatory or Request is not otherwise objectionable, FDN will conduct a search of the files that are reasonably expected to contain the requested information. To the extent that the Interrogatories and

Request purport to require more, FDN objects on the grounds that compliance would impose an undue burden or expense.

11. In certain circumstances, FDN may determine upon investigation and analysis that information responsive to certain discovery requests to which objections are not otherwise asserted are confidential and proprietary and should not be produced at all or should be produced only under an appropriate confidentiality agreement and protective order. By agreeing to provide such information in response to such a discovery request, FDN is not waiving its right to insist upon appropriate protection of confidentiality by means of a confidentiality agreement and protective order. FDN hereby asserts its right to require such protection of any and all documents that may qualify for protection under the Florida Rules of Civil Procedure and other applicable statutes, rules and legal requirements.

12. FDN objects to any discovery requests to the extent any definitions or instructions purport to expand FDN's obligations under applicable law. FDN will comply with applicable law.

13. FDN objects to the discovery requests to the extent they purport to require FDN to conduct any analysis or create information not prepared by FDN or its consultants in preparation for this case. FDN will only comply with its obligations under applicable law.

14. FDN objects to the discovery requests to the extent the requests require information for operations outside the State of Florida.

15. For each specific objection FDN may pose to the discovery here or hereafter, FDN incorporates all of the foregoing general objections.

### **SPECIFIC OBJECTIONS**

16. Interrogatory No. 15 solicits details of every FDN collocation in Bell's nine-state region. This information is not relevant to the high capacity loop and transport inquiries delegated to the states by the FCC, and the request is not reasonably calculated to lead to the discovery of admissible evidence. Whether the FCC's potential deployment tests for transport even implicate collocation accessibility issues could be argued. That aside, the hard transport triggers do reference the ability of requesting carriers to "obtain reasonable and nondiscriminatory access to the competing provider's facilities through a cross-connect to the competing provider's collocation arrangement at each end of the transport route . . . ." E.g., FCC Rule 51.319(e)(1)(ii)(D). That language, however, is not license for BellSouth to demand a collocation inventory from every carrier out there, particularly considering (a) how burdensome that task would be for most if not all carriers and (b) that BellSouth itself already has the information requested. This interrogatory would require FDN personnel to spend a hundred hours or more to inventory and verify every last minutia of FDN's 100 plus collocation sites. Not only would this be impossible to do in 20 days, but it could take more than a month and require FDN personnel to ignore

other important responsibilities of FDN's business. Besides, BellSouth already has the information requested. BellSouth would not be able to accurately bill FDN if BellSouth did not have this information. And all BellSouth has to do to verify the information is to look at FDN's bill disputes and match those up to the bills or, alternatively, BellSouth can just walk through its own premises where FDN's collocated equipment is housed and start counting. At best, the requirement of collocation/cross-connect accessibility pertains to ILEC switching offices at the start and end points of a route subject to elimination as a Section 251 transport UNE, and that presents a question of limited scope, to wit: At such offices, are space and cross-connects available, and on what terms? That inquiry does not justify foisting the burden of a comprehensive inventory of every collocation site in the state on other carriers. BellSouth knows what space and collocation services are available, and on what terms they are available for every one of BellSouth's premises. And until BellSouth identifies which routes BellSouth maintains should be eliminated as Section 251 transport UNEs, the switches or wire centers to be evaluated for accessibility of collocation and cross-connects cannot be identified. The instant interrogatory's relevance to the FCC's delegated loop inquiries is sketchy, at best.

17. Clarification may be required since two separate Interrogatories bear the No. 18. The second of these cross references Interrogatory No. 17, but it may have intended to refer to the first appearance of No. 18.

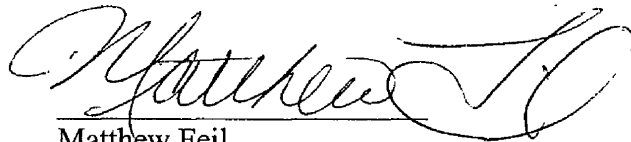
18. FDN objects to Interrogatories Nos. 19 – 24. These interrogatories basically ask FDN to provide BellSouth every detail of FDN's network. First and foremost, the

information solicited is not relevant to the high capacity loop and transport inquiries delegated to the states by the FCC, and the request is not reasonably tailored to lead to the discovery of admissible evidence. For instance, Interrogatory No. 19 asks FDN to identify all points at which FDN's network connects with the networks of other carriers. The only interconnection points between FDN and third-party carriers that may be relevant are those (1) at BellSouth wire centers or switch sites (2) at the start or end point of a specific transport "route", as that term is identified by the FCC. FDN has already identified those BellSouth locations in response to BellSouth's First Set of Interrogatories. Even if there were intermediate interconnection points or POPs for FDN and a third-party carrier between the start and end points on a transport route, the details of those intermediate POPs is not relevant – only the details of the start point and end point of the route itself matter. Similarly, Interrogatories Nos. 23 and 24 ask for a detailed inventory of and supporting retail information regarding non-BellSouth collocation arrangements. Again, even if there were intermediate POPs for FDN and a third-party between the start and end points on a transport route, the details of those intermediate POPs is not relevant. Interrogatory No. 20 asks for all points at which FDN and BellSouth's networks connect. BellSouth already has this information in its possession, and there's no point in asking FDN to drudge up what BellSouth already has. Interrogatories Nos. 21 and 22 solicit, among other things, details regarding any fiber rings FDN owns or controls. This information is not relevant to this case. The only information that is relevant pertains to transport from an ILEC switch or wire center to another ILEC switch or wire center and high capacity "loop" service. FDN has provided the relevant information in response to BellSouth's First Set of Interrogatories.



19. FDN believes Interrogatory No. 26 and Document Requests Nos. 3 – 5 are objectionable because an individual ALEC's business case(s) may not be relevant to the delegated inquiries for potential deployment of transport and/or loops.

Respectfully submitted, this 6 day of November 2003.



Matthew Feil  
Scott A. Kassman  
FDN Communications  
390 North Orange Avenue  
Suite 2000  
Orlando, FL 32801  
407-835-0460  
[mfeil@mail.fdn.com](mailto:mfeil@mail.fdn.com)  
[skassman@mail.fdn.com](mailto:skassman@mail.fdn.com)

CERTIFICATE OF SERVICE

Docket 030852-TP

I hereby certify that a copy of the foregoing was sent by e-mail and regular mail to the persons listed below, other than those marked with an (\*) who have been sent a copy via overnight mail, this 6 day of November, 2003.

BellSouth Telecommunications, Inc.  
R. Lackey/M. Mays/N. White/J. Meza/A. Shore  
c/o Ms. Nancy H. Sims  
150 South Monroe Street  
Suite 400  
Tallahassee, FL 32301-1556  
[nancy.sims@bellsouth.com](mailto:nancy.sims@bellsouth.com)

Mr. Adam Teitzman/Jason Rojas  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850  
[ateitzma@psc.state.fl.us](mailto:ateitzma@psc.state.fl.us)  
[jrojas@psc.state.fl.us](mailto:jrojas@psc.state.fl.us)

McWhirter Law Firm  
Vicki Kaufman  
117 South Gadsden Street  
Tallahassee, FL 32301  
[vkaufman@mac-law.com](mailto:vkaufman@mac-law.com)

Covad Communications Company  
Mr. Charles E. Watkins  
1230 Peachtree Street, N.E.  
19<sup>th</sup> Floor  
Atlanta, GA 30309-3574  
[g Watkins@covad.com](mailto:g Watkins@covad.com)

Verizon Florida, Inc.  
Richard Chapkis/Kimberly Caswell  
One Tampa City Center  
201 North Franklin Street (33602)  
P.O. Box 110, FLTC 0007  
Tampa, FL 33601-0110  
[Richard.chapkis@verizon.com](mailto:Richard.chapkis@verizon.com)

Florida Cable Telecom Assoc., Inc.  
Michael A. Gross  
246 East 6<sup>th</sup> Avenue  
Suite 100  
Tallahassee, FL 32303  
[mgross@fcta.com](mailto:mgross@fcta.com)

AT&T Communications of the  
Southern States, LLC  
Ms. Lisa A. Sapper  
1200 Peachtree Street, N.E.  
Suite 8100  
Atlanta, GA 30309-3579  
[lisariley@att.com](mailto:lisariley@att.com)

AT&T  
Tracy Hatch  
101 North Monroe Street  
Suite 700  
Tallahassee, FL 32301-1549  
[thatch@att.com](mailto:thatch@att.com)

ITC DeltaCom  
Ms. Nanette S. Edwards  
4092 South Memorial Parkway  
Huntsville, AL 35802-4343  
[nedwards@itcdeltacom.com](mailto:nedwards@itcdeltacom.com)

Florida Competitive Carriers Assoc  
C/O McWhirter Law Firm  
Joseph McGlothlin/Vicki Kaufman  
117 South Gadsden Street  
Tallahassee, FL 32301  
[jmglathlin@mac-law.com](mailto:jmglathlin@mac-law.com)

KMC Telecom III, LLC  
Marva Brown Johnson, Esq.  
1755 North Brown Road  
Lawrenceville, GA 30043-8119  
[marva.johnson@kmctelecom.com](mailto:marva.johnson@kmctelecom.com)

Messer Law Firm  
Floyd Self/Norman Horton  
P.O. Box 1876  
Tallahassee, FL 32302-1876  
[fself@lawfla.com](mailto:fself@lawfla.com)  
[nhorton@lawfla.com](mailto:nhorton@lawfla.com)

Sprint Communications Corp.  
Susan Masterton  
P.O. Box 2214  
Tallahassee, FL 32316-2214  
[susan.masterton@mail.sprint.com](mailto:susan.masterton@mail.sprint.com)

Allegiance Telecom, Inc.  
Jeffrey J. Binder  
1919 M Street, N.W.  
Suite 420  
Washington, DC 20037  
[Jeff.binder@aglx.com](mailto:Jeff.binder@aglx.com)

Moyle Law Firm  
Jon Moyle, Jr.  
The Perkins House  
118 N Gadsden Street  
Tallahassee, FL 32301  
[jmoylejr@moylelaw.com](mailto:jmoylejr@moylelaw.com)

NewSouth Communications Corp.  
Jake E. Jennings  
Two North Main Center  
Greenville, SC 29601-2719  
[jejennings@newsouth.com](mailto:jejennings@newsouth.com)

MCI WorldCom Communications, Inc.  
Ms. Donna C. McNulty  
1203 Governors Square Boulevard  
Suite 201  
Tallahassee, FL 32301-2960  
[donna.mcnutly@wcom.com](mailto:donna.mcnutly@wcom.com)

MCI WorldCom Communications, Inc.  
De O'Roark, Esq.  
Six Concourse Parkway  
Suite 3200  
Atlanta, GA 30328  
[de.oroark@wcom.com](mailto:de.oroark@wcom.com)

Xspedius Communications  
Ms. Rabinai E. Carson  
5555 Winghaven Boulevard  
Suite 300  
O'Fallon, MO 63366-3868  
[rabinai.carson@xspedius.com](mailto:rabinai.carson@xspedius.com)

Allegiance Telecom, Inc. (IL)  
Terry Larkin  
700 East Butterfield Road  
Lombard, IL 60148  
[Terry.larkin@algx.com](mailto:Terry.larkin@algx.com)



Matthew Feil  
Scott A. Kassman  
FDN Communications  
390 North Orange Avenue  
Suite 2000  
Orlando, FL 32801  
(407) 835-0460  
(407) 447-6636  
[mfeil@mail.fdn.com](mailto:mfeil@mail.fdn.com)  
[skassman@mail.fdn.com](mailto:skassman@mail.fdn.com)