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December 17, 2003

Ms. Blanca Bayó, Director  
Division of the Commission Clerk  
and Administrative Services  
Room 110, Easley Building  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

**Re:** Docket No. 030852-TP

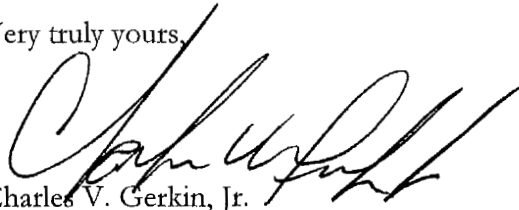
Dear Ms. Bayó:

Enclosed for filing in the above-referenced docket are the original and fifteen (15) copies of Allegiance Telecom of Florida's Objections to Staff's First Set of Interrogatories and Request for Production of Documents.

Also enclosed is an extra copy of this letter. Please acknowledge receipt of this transmittal by date-stamping the extra copy and returning it to the undersigned in the enclosed self-addressed stamped envelope.

Thank you for your assistance in this matter.

Very truly yours,

  
Charles V. Gerkin, Jr.

CVG/s  
Enclosures  
cc: Parties of Record

DOCUMENT RECEIVED DATE

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FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

<p>In re:</p> <p>IMPLEMENTATION OF REQUIREMENTS ARISING FROM FEDERAL COMMUNICATIONS COMMISSION TRIENNIAL UNE REVIEW: LOCAL CIRCUIT SWITCHING FOR MASS MARKET CUSTOMERS</p>	<p>Docket No. 030852-TP</p> <p>Filed: December 17, 2003</p>
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**ALLEGIANCE TELECOM OF FLORIDA, INC.'S  
OBJECTIONS TO STAFF'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION**

Allegiance Telecom of Florida, Inc. ("Allegiance"), pursuant to the Order Establishing Procedure, Order No. PSC-03-1054-PCO-TP, issued September 22, 2003, and Second Order on Procedure, Order No. PSC-03-1265-PCO-TP (hereinafter collectively "Procedural Orders"), issued November 7, 2003 by the Florida Public Service Commission (hereinafter "Commission"), Rule 28-106.206 of the Florida Administrative Code, and Rules 1.280 and 1.350 of the Florida Rules of Civil Procedure, hereby submits the following objections to Commission Staff's ("Staff") First Set of Interrogatories and First Request for Production of Documents to Allegiance.

These objections are preliminary in nature. Should additional grounds for objection be discovered as Allegiance prepares its responses to any discovery, Allegiance reserves the right to supplement these objections.

**General Objections**

Allegiance makes the following General Objections to Staff's First Set of Interrogatories and First Request for Production of Documents ("Staff Discovery"), including the definitions and general instructions therein, which as appropriate will be incorporated into each relevant response when Allegiance serves its responses to the Staff Discovery.

1. Allegiance objects to the “Definitions” section and the individual items of the Staff Discovery to Allegiance to the extent that they are overly broad, unduly burdensome and oppressive, and/or excessively time consuming and expensive.

2. Allegiance objects to the Staff Discovery to the extent that such discovery seeks to impose an obligation on Allegiance to respond on behalf of subsidiaries, affiliates, or other persons that are not parties to this case on the grounds that such discovery is overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules. Allegiance further objects to any and all Staff Discovery that seeks to obtain information from Allegiance for Allegiance subsidiaries, affiliates, or other related Allegiance entities that are not certificated by the Commission.

3. Allegiance has interpreted the Staff Discovery to apply to Allegiance’s regulated intrastate operations in Florida and will limit its responses accordingly. To the extent that any Staff Discovery is intended to apply to matters that take place outside the state of Florida and which are not related to Florida intrastate operations subject to the jurisdiction of the Commission, Allegiance objects to such request as irrelevant, overly broad, unduly burdensome, and oppressive.

4. Allegiance objects to the Staff Discovery to the extent that such discovery calls for information which is exempt from discovery by the attorney/client privilege, the work product doctrine, the accountant/client privilege, and any other applicable privilege.

5. Allegiance objects to the Staff Discovery insofar as such discovery is vague, ambiguous, overly broad, imprecise, or utilizes terms that are subject to multiple interpretations but are not properly defined or explained for purposes of these requests. Any responses provided by Allegiance in response to the Staff Discovery will be provided subject to, and without waiver of, the foregoing objection.

6. Allegiance objects to the Staff Discovery insofar as such discovery is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of

this action. In that regard, Allegiance objects, among other things, to any discovery request that seeks 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.

7. Allegiance objects to the Staff Discovery insofar as it seeks information or documents, or seek to impose obligations on Allegiance which exceed the requirements of the Florida Rules of Civil Procedure or Florida law. By way of illustration and not limitation, Allegiance objects to interrogatories and requests for documents that would require Allegiance to create information or a document that does not exist or prepare information in a manner in which Allegiance does not maintain it.

8. Allegiance objects to providing information to the extent that such information is already in the public record before the Commission or which is already in the possession, custody, or control of Staff.

9. Allegiance objects to the Staff Discovery to the extent that such discovery is overly broad, unduly burdensome, expensive, oppressive, or excessively time consuming as written.

10. Allegiance objects to each and every 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 Staffs requests seek proprietary confidential business information which is not the subject of the "trade secrets" privilege, Allegiance will make such information available to the Staff pursuant to the terms of the Commission's Protective Order and the requirements of section 364.183 and Florida Administrative Code Rule 25-24.006, subject to any other general or specific objections contained herein.

11. Allegiance is a large corporation with employees located in many different locations in Florida and in other states. In the course of its business, Allegiance creates countless documents that are not subject to Commission or FCC retention of records requirements. These documents are kept

in numerous locations and are frequently moved from site to site as employees change jobs or as the business is reorganized. Therefore, it is possible that not every document has been identified in response to these requests. Allegiance will conduct a reasonable and diligent search of those files that are reasonably expected to contain the requested information. To the extent that the Staff Discovery purports to require more, Allegiance objects on the grounds that compliance would impose an undue burden or expense.

12. Allegiance objects to the Staff Discovery that seeks to obtain “all,” “each,” or “every” document, item, customer, or other such piece of information to the extent that such discovery is overly broad and unduly burdensome. Any answers that Allegiance may provide in response to the Staff Discovery will be provided subject to, and without waiver or, this objection.

13. Allegiance objects to the Staff Discovery to the extent that such discovery is not limited to any stated period of time or a stated period of time that is longer than is relevant for purposes of the issues in this docket, as such discovery is overly broad and unduly burdensome.

14. Allegiance objects to each and every interrogatory or request for production that seeks information regarding Allegiance’s projections regarding future services, revenues, marketing strategies, equipment deployments, or other such future business plans as such requests are trade secrets and, for purposes of this proceeding, would be highly speculative and irrelevant to the issues to be decided in this docket.

15. In light of the short period of time Allegiance has been afforded to respond to the Staff Discovery, the development of Allegiance’s positions and potentially responsive information to the Staff Discovery is necessarily ongoing and continuing. Accordingly, these are preliminary objections to comply with the Procedural Order, and Allegiance reserves the right to supplement, revise, or modify its objections at the time that it serves its actual responses to the Staff Discovery. However, Allegiance does not assume an affirmative obligation to supplement its answers on an ongoing basis.

### Specific Objections to Interrogatories

- 1.(b) For each transport facility identified in (a), please identify the cost of the facility, including the installation cost for any facilities that you have deployed yourself, and the rates, terms and conditions of any transport facilities that you obtain through a wholesale, lease, or resale arrangement, from any entity other than ILEC.

Allegiance objects to this Interrogatory on the ground that it is not reasonably calculated to lead to the discovery of admissible evidence in that Allegiance's cost of transport and the rates, terms and conditions pursuant to which Allegiance obtains transport are not relevant to analysis of the transport triggers on any route.

- 2.(a) Please identify all competing providers with which you are not affiliated that to your knowledge have deployed dark fiber facilities (including any facilities obtained on a long-term, indefeasible right of use basis) along any routes in Florida. For each such competitor, state your basis for making this assertion.

- (b) For each competing provider identified in (a), identify the particular route or routes along which the competitor is asserted to have such facilities. State whether or not to your knowledge those facilities terminate at a collocation arrangement where each end of the transport route is located at an ILEC premises, or in a similar arrangement at which one end of the transport route is located at an ILEC premises or where neither end is located at an ILEC premises.

Allegiance objects to these Interrogatories to the extent that they purport to require Allegiance to speculate concerning the transport facilities of transport providers from whom Allegiance does not obtain transport on the grounds that any such response would be speculative and that the providers of transport facilities are the best source of information concerning those transport facilities.

- 4.(a) Have you entered into an agreement for joint construction of transport facilities with any ILEC?
- (b) If the response to (a) is affirmative, please identify the pairs of ILEC wire centers between which joint construction of transport facilities either has occurred or is planned to occur.
- (c) If the response to (a) is affirmative, please identify the ILEC involved, when the agreement was entered into, and the status of the joint construction.
- (d) If the response to (a) is negative, have you attempted to negotiate any agreement with an ILEC for the joint construction of transport facilities?
- (e) If the response to (d) is affirmative, please describe any attempts made to enter into such agreements and the results of such negotiations.
- (f) If the response to (d) is negative, please explain why no such negotiations have been attempted.
- (g) Have you entered into an agreement for joint construction of transport facilities with any other CLEC or utility company (e.g., cable television, electric, gas, water and sewer)?
- (h) If the response to (g) is affirmative, please identify the beginning, ending and intermediate terminating points for all such routes where joint construction of transport facilities either has occurred or is planned to occur.
- (i) If the response to (g) is affirmative, please identify, for each such agreement, the entities involved, when the agreement was entered into, the type of joint construction used (e.g., joint trenching, composite cable, etc.), the total cost savings achieved by the joint venture, and the status of the joint construction.
- (j) If the response to (g) is negative, have you attempted to negotiate any agreement with any other CLEC or utility company for the joint construction of transport facilities?

- (k) If the response to (j) is affirmative, please describe any attempts made to enter into such agreements and the results of such negotiations, whether you have evaluated any possible economic advantages of jointly constructing transport facilities and the results of any such evaluations.
- (l) If the response to (j) is negative, please explain why no such negotiations have been attempted.

Allegiance objects to these Interrogatories on the ground that they are not reasonably calculated to lead to the discovery of admissible evidence in that information concerning negotiations or agreements that Allegiance may or may not have entered into with others for the joint construction of transport is not relevant to analysis of whether the loop or transport triggers have been satisfied in any location.

- 6.(b) For each of the arrangements identified in response to (a), please identify the types of services (e.g., local, broadband, etc.) you currently provide with the existing equipment located there.
- (c) For each of the arrangements identified in response to (a), please identify the types of services (e.g., local, broadband, etc.) that the equipment is not currently being used to provide but is capable of providing.
- (d) For each of the arrangements identified in response to (a), please identify the types of services (e.g., local, broadband, etc.) that the existing equipment is incapable of providing.

Allegiance objects to these Interrogatories on the ground that the request to list the types of services provided and the types of services that Allegiance's equipment is or is not capable of providing is ambiguous and vague in the absence of a complete list of the services concerning which Allegiance is expected to report. Therefore, these Interrogatories are overly broad, and it would be unduly burdensome and oppressive for Allegiance to respond to such ambiguous discovery. Subject to and



without waiving its objections to these Interrogatories, Allegiance will provide information concerning the services it provides using equipment in shared collocation arrangements, if any, and whether such equipment, if any, is capable of providing local service.

- 7.(b) For each of the arrangements identified in response to (a), please identify the types of services (e.g., local, broadband, etc.) you currently provide with the existing equipment located there.
- (c) For each of the arrangements identified in response to (a), please identify the types of services (e.g., local, broadband, etc.) that the equipment is not currently being used to provide but is capable of providing.
- (d) For each of the arrangements identified in response to (a), please identify the types of services (e.g., local, broadband, etc.) that the existing equipment is incapable of providing.

Allegiance objects to these Interrogatories on the ground that the request to list the types of services provided and the types of services that Allegiance's equipment is or is not capable of providing is ambiguous and vague in the absence of a complete list of the services concerning which Allegiance is expected to report. Therefore, these Interrogatories are overly broad, and it would be unduly burdensome and oppressive for Allegiance to respond to such ambiguous discovery. Subject to and without waiving its objections to these Interrogatories, Allegiance will provide information concerning the services it provides using equipment in non-ILEC collocation arrangements, if any, and whether such equipment, if any, is capable of providing local service.

- 8.(a) Are you familiar with Fiberloops ([www.fiberloops.com](http://www.fiberloops.com)), a matchmaking service for companies looking for fiber, optical bandwidth and collocation space?
- (b) If the response to (a) is affirmative, are you now or have you been, a client of Fiberloops?
- (c) If the response to (b) is affirmative, please describe what services Fiberloops has provided or is providing your company.

Allegiance objects to these Interrogatories on the ground that they are not reasonably calculated to lead to the discovery of admissible evidence in that information concerning any dealings that Allegiance may or may not have with Fiberloops is not relevant to analysis of whether the loop or transport triggers have been satisfied in any location.

- 13.(a) Over the past 5 years, have you entered into an agreement for joint construction of high capacity or dark fiber loops facilities with any ILEC, CLEC or utility company (e.g., cable television, electric, gas, water and sewer)?
- (b) If the response to (a) is negative, please describe any attempts made to enter into such an agreement and the results of such negotiations.
- (c) If the response to (a) is affirmative, please describe the number of such agreements by type of joint construction used (e.g., joint trenching, composite cable, etc.), the range, median and mode of the number of entities involved in the agreement, and the percent of cost savings achieved by joint construction.

Allegiance objects to these Interrogatories on the ground that they are not reasonably calculated to lead to the discovery of admissible evidence in that information concerning negotiations or agreements that Allegiance may or may not have entered into with others for the joint construction of loops is not relevant to analysis of whether the loop or transport triggers have been satisfied in any location.

### **Specific Objections to Requests for Production**

2. Please provide all documents that support your response to Interrogatory No. 1(b).

See objection to Interrogatory 1(b).

3. Referring to Interrogatory No. 2(a), please provide any available maps or diagrams that show the location of competitors' dark fiber facilities.

See objection to Interrogatory 2(a).

4. Please provide all documents that support your response to Interrogatory No. 2(b).

See objection to Interrogatory 2(b).

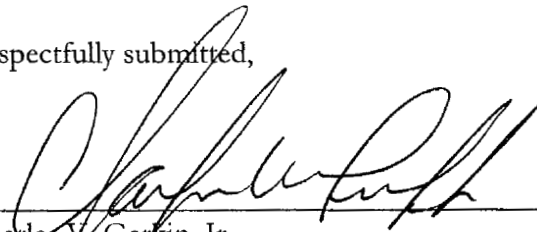
6. Please provide copies of all agreements identified in response to Interrogatory No. 4(c).

See objection to Interrogatory 4(c).

7. Please provide copies of all agreements identified in response to Interrogatory No. 4(h).

See objection to Interrogatory 4(h).

Respectfully submitted,



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Georgia Bar No. 291625

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