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From: LoMonte, Frank D. [Frank.LoMonte@sablaw.com]
 Sent: Wednesday, September 07, 2005 4:25 PM
 To: Filings@psc.state.fl.us
 Cc: Adelman, David; Boyd Jr., C. Everett; NEdwards@itcdeltacom.com
 Subject: E-FILING - Docket No. 050450-TP, ITC^DeltaCom request for confidential classification and affidavit
 Attachments: Petition - No. 05-0450; Affidavit - No. 05-0450

Attached for filing please find (1) a petition for confidential classification (5 pages) and (b) a supporting affidavit (3 pages) on behalf of ITC^DeltaCom Communications, Inc. in Docket No. 05-0450.

Please contact me or C. Everett Boyd at (850) 907-2502 if there are any questions.
Thank you,

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<<Petition - No. 05-0450>> <<Affidavit - No. 05-0450>>

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08475 SEP-7 05

FPSC-COMMISSION CI FRK

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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
TALLAHASSEE, FLORIDA**

In Re: Petition of ITC^DeltaCom Communications,)
Inc. for Mediation and Dispute Resolution) Docket No. 050450-TP

**ITC^DELTACOM'S REQUEST
FOR CONFIDENTIAL CLASSIFICATION**

I. INTRODUCTION

ITC^DeltaCom Communications, Inc. ("ITC^DeltaCom" or "the Company") hereby requests, pursuant to Fla. Stat. § 366.093 and F.A.C. Rule 25-22.006, that Exhibit B to ITC^DeltaCom's Petition for Mediation and Dispute Resolution receive confidential classification. As discussed below and in the attached Affidavit of Steve Brownworth, Exhibit B contains sensitive, proprietary information. Disclosure of the information at issue would serve no compelling public interest, and would be highly damaging to ITC^DeltaCom's legitimate business interests. Accordingly, confidential treatment is warranted.

II. DISCUSSION

On June 30, 2005, ITC^DeltaCom filed its Petition for Mediation and Dispute Resolution, accompanied by three Exhibits. Exhibit B contained a series of diagrams and lists reflecting ITC^DeltaCom's proprietary network configuration. ITC^DeltaCom filed Exhibit B in redacted form, and simultaneously filed an un-redacted version, for Commission use only, along with a Notice of Intent to Request Confidential Classification. This petition elaborates upon the bases for confidentiality discussed in the Notice of Intent.¹

¹ ITC^DeltaCom is authorized to state that the opposing party in this Docket, BellSouth Telecommunications, Inc., consents to the filing of this petition more than 21 days after filing of the redacted exhibit and Notice of Intent. The Notice of Intent fully disclosed ITC^DeltaCom's

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FPSC-COMMISSION CLERK

Fla. Stat. § 366.093(1) provides that “any records received by the Commission which are shown and found by the Commission to be proprietary confidential business information shall be kept confidential and shall be exempt” from disclosure under the Public Records Act.

Proprietary, confidential business information is defined as information that 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.

Fla. Stat. 366.093(3). Section 366.093 further provides that proprietary confidential business information includes, but is not limited to, “[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.”

Fla. State. § 366.093(3)(e).²

As shown in the accompanying affidavit of Steve Brownworth, Vice President of Systems Planning for ITC^DeltaCom, the information redacted from Exhibit B is information that was developed by, and is the exclusive property of, ITC^DeltaCom. Brownworth Aff. at ¶ 5. The manner in which the Company’s network is configured is unique to ITC^DeltaCom and was developed at considerable expense to the Company, and is information that would have considerable value if obtained by a competitor. Brownworth Aff. at ¶ 8. If the information were

request and the basis therefor; this petition merely elaborates upon the information contained in the Notice of Intent.

² Section 366.093 does not provide for the Commission to weigh the public’s interest in disclosure against the Company’s interest in confidentiality; once it is determined that information qualifies as “proprietary confidential business information,” the owner of the information is entitled to confidentiality. However, it should be noted that there is no strong public interest in seeing diagrams and descriptions of the configuration of ITC^DeltaCom’s network elements, and that any such interest would be exceedingly small as compared with the considerable competitive injury the Company could suffer if confidentiality were denied.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing is being forwarded via U.S. mail, to:

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(404) 335-0765

on this the 7th day of September, 2005.

/s/
C. Everett Boyd, Jr.

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AFFIDAVIT OF STEVE BROWNORTH

Steve Brownworth, after having been first duly sworn, deposes and states as follows:

1.

I am Steve Brownworth and I am Vice President of Systems Planning for ITC^DeltaCom Telecommunications, Inc., in West Point, Georgia. I am over 18 years of age. This affidavit is based on my personal knowledge.

2.

In my capacity as Vice President of Systems Planning, I am responsible for the network architecture of the local and long-distance voice network, data network, and fiber-optic transport network for ITC^DeltaCom.

3.

On June 30, 2005, ITC^DeltaCom filed its Petition for Mediation and Dispute Resolution in Docket No. 050450-TP, accompanied by three exhibits.

4.

Exhibit B to this filing was filed in redacted form, and contains a series of Commingling Diagrams and accompanying text, which illustrate and describe elements of ITC^DeltaCom's telecommunications network architecture. I am personally familiar with the contents and significance of Exhibit B.

5.

The information redacted from Exhibit B was created by, and is the exclusive property of, ITC^DeltaCom.

6.

ITC^DeltaCom has never disseminated the diagrams and lists in Exhibit B, or their contents, for inspection by the public or by any ITC^DeltaCom competitor, other than in connection with a legal or regulatory proceeding in which disclosure was required, or under the protection of a legally binding confidentiality agreement.

7.

ITC^DeltaCom has established and enforced internal procedures by which its network configurations are kept confidential. These procedures include but are not limited to dissemination to only those key personnel with a need to know.

8.

The information contained in Exhibit B was developed by network employees for ITC^DeltaCom for its exclusive use, and would have substantial value to a competitor if disclosed. For example, a competitor could copy the manner in which ITC^DeltaCom configures its network elements, so as to be able to advertise that its services were the same as those provided by ITC^DeltaCom, or to offer services indistinguishable from those offered by ITC^DeltaCom, or otherwise gain a competitive advantage.

9.

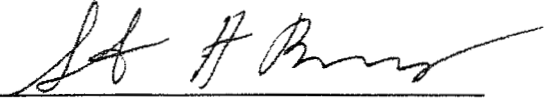
The manner in which a Competitive Local Exchange Carrier configures its network elements affects the manner in which service is delivered to commercial end users, and therefore, is a significant factor differentiating the offerings of one CLEC from another.

10.

ITC^DeltaCom would suffer substantial competitive injury if the proprietary confidential business information contained in Exhibit B was to be disseminated publicly.

11.

This concludes my affidavit.



Steve Brownworth

Sworn to and subscribed before me
this 6th day of September 2005.

Cynthia J. Alrabwa

Notary Public

My Commission expires: MY COMMISSION EXPIRES FEB. 1, 2006