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FILE COPY**

July 26, 1994

Ms. Blanca S. Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
101 East Gaines Street  
Tallahassee, Florida 32399-0850

HAND DELIVERY

Re: Docket No. ~~921074~~-TP, et al.

Dear Ms. Bayo:

Enclosed herewith for filing in the above-referenced docket are the following documents:

1. Original and fifteen copies of Teleport Communications Group, Inc.'s Objections to Southern Bell's First Set of Interrogatories and Request for Production of Documents and Motion for Protective Order; and,
2. A disk in Word Perfect 5.1 containing a copy of the document entitled "Tele.Pro."

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Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely,

*Kenneth A. Hoffman*  
Kenneth A. Hoffman

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KAH/rl  
CC: All Parties of Record

DOCUMENT NUMBER-DATE

07595 JUL 26 1994

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Expanded Interconnec- )  
tion Phase II and Local )  
Transport Restructure )  
\_\_\_\_\_ )

Docket No. 921074-TP

Filed: July 26, 1994

**TELEPORT COMMUNICATIONS GROUP, INC.'S  
OBJECTIONS TO SOUTHERN BELL'S FIRST  
SET OF INTERROGATORIES AND REQUEST  
FOR PRODUCTION OF DOCUMENTS AND  
MOTION FOR PROTECTIVE ORDER**

Teleport Communications Group, Inc. ("TCG"), by and through its undersigned counsel, and pursuant to Order No. PSC-94-0076-PCO-TL issued January 21, 1994 in this docket, Rules 25-22.006(5), 25-22.028(4), 25-22.034 and 25-22.0335(3), Florida Administrative Code, and Rules 1.280(c) and 1.340, Florida Rules of Civil Procedure, hereby files its Objections to BellSouth Telecommunications, Inc., d/b/a Southern Bell Telephone and Telegraph Company's ("Southern Bell") First Set of Interrogatories and First Request for Production of Documents (see Attachment No. 1) and requests the Prehearing Officer to enter a Protective Order Determining that TCG is not required to respond to Southern Bell's Interrogatories Nos. 2, 3, 4, 5, 6, and 8 nor produce the documents requested in Southern Bell's Request for Production of Documents Nos. 1 and 2.

**I. INTRODUCTION**

As detailed below, the Florida Public Service Commission ("PSC" or "Commission") should grant TCG's Motion for Protective Order ("Motion") because the information that Southern Bell requests constitutes "proprietary confidential business

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information" as defined and described in Section 364.183, Florida Statutes. Moreover, the requests are overly broad in scope and would be unreasonably burdensome, expensive, oppressive and/or excessively time consuming to satisfy. Finally, these discovery requests seek information which is not reasonably calculated to lead to the discovery of admissible evidence in this proceeding.

## II. ARGUMENT

**Interrogatory No. 2: List any service under development by your company or any of its affiliates or any services being considered as an offering to interexchange carriers or large end users within the next five years. For each service listed, describe how the service can be utilized by a customer and what type of telecommunication traffic can be carried over the service.**

TCG objects to this interrogatory on the ground that it requests proprietary confidential business information concerning TCG's strategic business plans. Section 364.183, Florida Statutes provides, in pertinent part, that proprietary confidential business information is information "... intended to be (treated) and ... treated by the person or company as private in that the disclosure of the information would cause harm to the ... company's business operations...." Disclosure of the information requested above, assuming that it is available, would place TCG at a competitive disadvantage by disclosing valuable strategic business plans and trade secrets<sup>1</sup> to existing and potential competitors, and could

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<sup>1</sup>Trade secrets are privileged under Section 90.506, Florida Statutes. The courts have held that a party who seeks disclosure of a trade secret must demonstrate a reasonable necessity for the information and that its interests outweigh the interests of the trade secret holder in maintaining the confidentiality of the information. Fortune Personnel Agency of Ft. Lauderdale, Inc. v. Sun Tech Inc. of South Florida, 423 So.2d. 545, 546, n.6 (Fla. 4th

impair TCG's efforts to contract with its customers at competitive rates. Such information is protected from disclosure under Section 364.183(3) (a) and (e), Florida Statutes.

Commission precedent supports TCG's position. In Order No. PSC-93-1279-CFO-TL issued September 2, 1993, the Chairman in his capacity as Prehearing Officer held that Southern Bell's strategic plans for its pay telephone operations and its analyses, evaluations, and results of its market research in the area of public communications should be held confidential. The Chairman emphasized that "[d]isclosure of this information could provide significant benefits to NPATs providers in competing for locations, as well as giving them market research that could be used to help them better compete in the market." See 93 F.P.S.C. 9:14, 16 (1993).

Although there is certainly a limited degree of competition today between local exchange companies ("LECs") and alternative access vendors ("AAVs"), the purpose of this docket is, inter alia, to consider whether the enhancement of competition through expanded interconnection for switched access serves the public interest. Today, competition between LECs and AAVs to provide the local transport portion of switched access can only be described as "potential" competition which may be realized if this Commission follows the Federal Communications Commission in authorizing expanded interconnection for switched access. Nonetheless,

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DCA 1982); Eastern Cement Corporation v. Department of Environmental Regulation, 512 So.2d 264, 266 (Fla. 1st DCA 1987).

Southern Bell previously has argued and the Commission has indicated a likelihood to accept the position that Section 364.183(3)(e), Florida Statutes, includes information which would be advantageous to potential competitors within the scope of "proprietary confidential business information." See Order No. PSC-93-1606-FOF-TL issued November 2, 1993; 93 F.P.S.C. 11: 67, 68 (1993).<sup>2</sup>

Moreover, at this time, TCG cannot provide meaningful information relevant to this docket concerning the types of services that TCG may provide within the next five years. TCG cannot predict the various kinds of services that its potential customers may require nor can it predict with any certainty the new technologies that may emerge within that time. These technologies could make available a wide variety of telecommunications services that cannot be contemplated today. Thus, TCG cannot provide a response to this question that would offer the Commission any meaningful information in this docket, especially in light of the fact that this proceeding deals specifically with interconnection to LEC services.

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<sup>2</sup>In that Order, the Commission held:

"Bell also argues that, even though switched access is currently a monopoly service, there is potential competition in the forms of alternative special access service, pending FCC action on special and switched access collocation and inter-connection, and the pending Intermedia application before this Commission for collocation and interconnection of special access and private line services. This argument might have been persuasive, at least with regard to some of the information at issue, had it not been made for the first time in Bell's motion for reconsideration."

Finally, the interrogatory, as stated,<sup>3</sup> requests information not reasonably calculated to lead to the discovery of evidence relevant to the issues outlined in this proceeding. See Order Nos. PSC-94-0277-PCO-TL and PSC-94-0830-PCO-TP issued March 10, 1994 and July 7, 1994, respectively.

**Interrogatory No. 3:** List your company's or its affiliate's present services or services under development which do or would compete, upon either virtual or physical collocation, with the interstate DS1 or DS3 dedicated transport services of the LEC.

See response to Interrogatory No. 2 above. To the extent that TCG currently offers certain services, TCG will provide a copy of its current tariff when TCG submits its responses to the remaining interrogatories. These tariffs describe TCG's current services.

**Interrogatory No. 4:** List your company's or its affiliate's present services or services under development which do or would compete, upon either virtual or physical collocation, with the interstate common switched transport series of the LEC.

See responses to Interrogatory Nos. 1 and 2 above.

**Interrogatory No. 5:** List your company's or its affiliate's present services or services under development which do or would compete, upon either virtual or physical collocation, with the intrastate DS3 of DS3 dedicated transport services of the LEC.

See responses to Interrogatory Nos. 1 and 2 above.

**Interrogatory No. 6:** List your company's or its affiliate's present services or services under development which do or would compete, upon either virtual or physical collocation, with the intrastate common switched transport services of the LEC.

See responses to Interrogatory Nos. 1 and 2 above.

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<sup>3</sup>The interrogatory requests information pertaining to "any service under development" by TCG or "any of its affiliates."

Requests for Production of Documents

Production Request No. 1: Produce all sales brochures, service descriptions, marketing documents, price lists, advertising documents, customer education documents, sales representative training documents, concerning services identified in response to Southern Bell's First Set of Interrogatories, Item Nos. 1, 2, 3, 4, 5, 6, 7, and 8.


Production Request No. 2: Produce all documents concerning describing related to the services identified in response to Southern Bell's First Set of Interrogatories, Item Nos. 2, 3, 4, 5, 6, and 7.

Southern Bell's request for production of the documents includes documents containing proprietary and confidential information such as TCG in-house training and education documents. To the extent that documents such as sales brochures and advertising documents are generally available to the public, TCG will submit such information in its responses to Southern Bell's interrogatories.

III. CONCLUSION

WHEREFORE, for the reasons set forth herein, TCG respectively request the Prehearing Officer to enter an Order granting its Motion for Protective Order.

Respectfully submitted,

  
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and

Teresa Marrero, Esq.  
Regulatory Counsel  
Teleport Communications Group Inc.  
One Teleport Drive, Suite 301  
Staten Island, NY 10311  
718-370-4891



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Teleport Communication's Group, Inc.'s Objections to Southern Bell's First Set of Interrogatories and Request for Production of Documents and Motion for Protective Order was furnished by U. S. Mail to the following, this 26th day of July, 1994:

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By:   
KENNETH A. HOFFMAN, ESQ.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Expanded Interconnection )  
Phase II and Local Transport )  
Restructure )

Docket No. 921074-TP

Filed: July 12, 1994

BELLSOUTH TELECOMMUNICATIONS, INC. D/B/A  
SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S  
FIRST SET OF INTERROGATORIES AND REQUEST  
FOR PRODUCTION OF DOCUMENTS TO THE  
TELEPORT COMMUNICATIONS GROUP, INC.

BellSouth Telecommunications, Inc., doing business as Southern Bell Telephone and Telegraph Company, ("Southern Bell") by and through its undersigned attorneys propounds the following interrogatories and requests for production of documents to the Teleport Communications Group, Inc. ("Teleport"). The interrogatories are to be answered under oath in full accordance with Rules 25-22.034 and 25-22.035 of the Florida Administrative Code and Rule 1.340 of the Florida Rules of Civil Procedure. All answers must be served upon the attorneys for Southern Bell by August 13, 1994. Each interrogatory should be answered upon the knowledge or information or belief of Teleport, and any answer based upon information or belief should state that it is given on such basis. If the complete answer to the interrogatory is not known, please so state and answer as fully as possible the part of the interrogatory to which an answer is known. For each answer, or part of an answer, please identify the individual or individuals who provided the information or assisted in providing the information contained the responses. Please give the name, address, and relationship to Teleport of the person or persons providing the answer or answers to the interrogatory response or responses. If the individual or individuals so identified will not

be a witness sponsored by Teleport during any hearings in this docket, please also identify the witness or witnesses sponsored by Teleport who will be responsible for each answer or part of an answer.

If the response to any interrogatory is that the information requested is not currently available, please state when the information requested will be available.

Southern Bell requests the Teleport and its attorneys, produce the documents requested for inspection and copying at the offices of Southern Bell, 150 South Monroe Street, Suite 400, Tallahassee, Florida at or before 5:00 pm on August 13, 1994, or at such other time and place which may be mutually agreed upon by counsel.

If any of the information or documents sought is considered to proprietary, Southern Bell will execute an appropriate protective agreement prior to due date of the discovery so that there will be no delay in Teleport filing its responses.

#### INSTRUCTIONS

1. If any document is considered privileged under any claim and withheld, please furnish a list identifying each document for which privilege is claimed, together with the following information: date, sender, recipients, recipients of documents, subject matter of the document, and the basis upon which such privilege is claimed.

3. If Teleport has possession, custody, or control of the originals of the documents requested, please produce the originals or a complete copy of the originals and all copies which are different in any way from the original, whether by interlineation, receipt stamp or notation. If Teleport does not have possession,

custody, or control of the originals of the documents requested, please produce any copies in the possession, custody, or control, however made, of Teleport.

#### DEFINITIONS

1. As used herein, "you" and "your" shall mean Teleport together with its employees, agents, consultants, experts, affiliates, subsidiaries and, unless privileged, its attorneys.

2. Please construe "and" as well as "or" either disjunctively or conjunctively as necessary to bring in the scope of these interrogatories any information which might otherwise be construed outside their scope.

3. "Document" or "Documents" means any written, recorded, filmed or graphic matter, whether produced, reproduced, on paper, cards, tapes, film, electronic facsimile, computer storage device or any other media, including, but not limited to, memoranda, notes, minutes, records, photographs, correspondence, telegrams, diaries, bookkeeping entries, financial statements, tax returns, checks, check stubs, reports, studies, charts, graphs, statements, notebooks, handwritten notes, applications, agreements, books, pamphlets, periodicals, appointment calendars, records or recording of oral conversations, workpapers and notes, any of which are in your possession, custody, or control.

#### INTERROGATORIES

1. List the specific services your company or any of its affiliates currently provides to interexchange carriers or large end users on an interstate or intrastate basis. For each service listed, describe how the service can be utilized by a customer and

what type of telecommunications traffic can be carried over the service.

2. List any service or services under development by your company or any of its affiliates or any services being considered as an offering to interexchange carriers or large end users within the next five years. For each service listed, describe how the service can be utilized by a customer and what type of telecommunication traffic can be carried over the service.

3. List your company's or its affiliate's present services or services under development which do or would compete, upon either virtual or physical collocation, with the interstate DS1 or DS3 dedicated transport services of the LEC.

4. List your company's or its affiliate's present services or services under development which do or would compete, upon either virtual or physical collocation, with the interstate common switched transport services of the LEC.

5. List your company's or its affiliate's present services or services under development which do or would compete, upon either virtual or physical collocation, with the intrastate DS1 or DS3 dedicated transport services of the LEC.

6. List your company's or its affiliate's present services or services under development which do or would compete, upon either virtual or physical collocation, with the intrastate common switched transport services of the LEC.

7. If the Florida Public Service Commission were to require LECs to provide tandem signalling on a unbundled basis, list the services your company or its affiliate can or could offer to interexchange carriers or large end users.

8. List the services your company or its affiliate can provide to interexchange carriers or large end users as a result of the FCC's Third Report and Order in CC Docket No. 91-141, released May 27, 1994, concerning local exchange companies providing to interested third parties signalling information necessary to provide tandem switching.


REQUEST FOR PRODUCTION OF DOCUMENTS

1. Produce all sales brochures, service descriptions, marketing documents, price lists, advertising documents, customer education documents, sales representative training documents, concerning services identified in response to Southern Bell's First Set of Interrogatories, Item Nos. 1, 2, 3, 4, 5, 6, 7, and 8.

2. Produce all documents concerning describing related to the services identified in response to southern Bell's First Set of Interrogatories, Item Nos. 2, 3, 4, 5, 6, and 7.

Respectfully submitted this 12<sup>th</sup> day of July, 1994.

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