

ORIGINAL

Haligman and Lottner

A Professional Corporation
Attorneys at Law

First Interstate Tower North
633 Seventeenth Street
Suite 2700
Denver, Colorado 80202-3635

Telephone (303) 292-1200
Fax (303) 292-1300

October 1, 1997

Edward I. Haligman
Alan B. Lottner
Richard I. Brown
Rick J. Rubin
Marshall H. Fishman
Richard J. Saul
Jeffrey A. Hyman
Michael L. Glasser
Curt Todd
Janet E. Parlesin
Michael D. Murphy
Michael S. Friedman
Brenda M. Sauro
Terri Beth Cohen
K. Harsha Krishnan
Phillip K. Larson
Richard B. Levin
Scott A. Ross
Canora T. Podd

Ms. Blanca S. Bayo
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: *Docket 970883-TT*

Dear Ms. Bayo:

Enclosed are an original and fifteen copies of both Business Discount Plan, Inc.'s Objections to the Attorney General and Citizens' First Request for Production of Documents and Business Discount Plan, Inc.'s Motion for Acceptance of Objections to the Attorney General and Citizens' First Request for Production of Documents which we ask that you file in the above-captioned matter.

Additional copies of both the Motion and the Objections marked "stamp and return" are also enclosed. Please mark them to indicate that the originals were filed and return the copies to me. Copies have been served to the parties shown on the attached Certificate of Service.

Very truly yours,

HALIGMAN AND LOTTNER, P.C.

By: *Canora T. Podd*
Canora T. Podd

Enclosures
CTP/c

Objections - 10/20-97
Motion - 10/21-97

ACK _____

AFA _____

ASP 1 _____

CAF _____

CTU _____

CTR _____

~~LEVI~~ _____

LEI LEVI _____

LI 5 _____

CP _____

FR _____

SEC 1/6062 J/2475-29/100197

Washington, D.C. Office
1020 Wisconsin Street, N.W.
Washington, D.C. 20004

Telephone (202) 393-4400
Fax (202) 393-4448

OTH [Signature]

its responses on Citizens. Moreover, should BDP determine that a Protective Order is necessary with respect to any of the material requested by Citizens, BDP reserves the right to file a motion with the Florida Public Service Commission ("Commission") seeking such an order at the time that it serves its responses on Citizens.

I. GENERAL OBJECTIONS TO DEFINITIONS

BDP makes the following general objections to the definitions contained in Citizens' First Set of Requests for Production of Documents:

A. Respondent objects to Citizens' definition of the term "Document" in that Citizens' description is overly broad, burdensome and harassing. Respondent further objects to the definition to the extent that it seeks to impose requirements on Respondent outside those established by the Florida Rules of Civil Procedure, Florida Administrative Code and other applicable law. Respondent further objects to the definition as seeking to include documents beyond the scope of the rulemaking procedure and not relevant to the subject matter of this proceeding. Respondent further objects to the definition as seeking documents protected by the attorney-client privilege and the attorney work product doctrine.

B. Respondent objects to Citizens' definition of the terms "you," "your," "Company," or "Business Discount Plan" to the extent these definitions seek to impose an obligation on BDP to respond on behalf of other entities or persons that are not parties to this proceeding on the grounds that such definition is overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules.

Each of the objections to definitions set forth above will be incorporated into Respondent's response to each request in which that defined term is used and is, therefore, deemed a "continuing objection."

II. GENERAL OBJECTIONS TO REQUESTS

The following general objections apply to each individual request propounded by Citizens' and will be incorporated into each response thereto by Respondent:

A. Respondent objects to each request on the grounds and to the extent it seeks documents and/or information protected by the attorney-client privilege, the work product doctrine, or the self-critical analysis privilege. Documents protected by these privileges will not be produced.

B. Respondent objects to each request on the grounds and to the extent that each request seeks documents and/or information that constitutes "trade secrets" which are privileged pursuant to §90.56, Florida Statutes. To the extent that the inquiries seek proprietary confidential business information which is not the subject of the "trade secrets" privilege, no such documents responsive to any request will be produced until after an appropriate stipulated protective order has been agreed to with Citizens', subject to any other general or specific objections contained herein.

C. BDP objects to each request on the grounds that BDP has not and does not presently intend to intervene in this proceeding and is not a party to this proceeding. In its September 12, 1997 Order, Order No. PSC-97-1071-PCO-TI (the "Order"), the Commission changed the character of this proceeding from an investigative proceeding under §120.57,

Florida Statutes, to a rulemaking proceeding under §120.54. However, the Commission modified the rulemaking proceeding to include discovery. Section 120.54 provides for the participation of persons interested in the rulemaking proceeding. Nothing within §120.54, nor the administrative rules cited by the Commission in its Order, provide it with the authority to conduct mandatory discovery of and demand information from persons who do not wish to participate in the rulemaking process or are not parties to the proceeding. Hence, the Commission is without the authority to require non-intervening parties, such as BDP, to participate in the discovery process under the applicable rulemaking statute. Because BDP has not intervened in this rulemaking proceeding, it is not a "participant" as described in the Order and is, therefore, not now required to respond Citizens' First Request for Production of Documents.

D. Respondent objects to each request on the grounds and to the extent that compliance therewith would be burdensome and harassing, and unduly expensive to respond or produce documents in light of the extremely broad and general nature of Citizens' inquiries.

E. BDP objects to each request insofar as the request is vague, ambiguous, 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 BDP in response to Citizens' requests will be provided subject to, and without waiver of, the foregoing objection.

F. Respondent objects to each request on the grounds and to the extent that each request seeks discovery of material that is not relevant to Respondent's provision of telecommunications services to consumers in Florida.

G. BDP has interpreted Citizens' requests to apply to BDP's regulated intrastate operations in Florida and will limit its responses accordingly. To the extent that any request is intended to apply to matters other than Florida intrastate operations subject to the jurisdiction of the Commission, BDP objects to such request as irrelevant, overly broad, unduly burdensome, and oppressive.

H. BDP objects to each request insofar as the request is not reasonably calculated to lead to the discovery of admissible evidence in this proceeding and is not relevant to the subject matter of this action.

I. BDP objects to each request insofar as it seeks to impose obligations on BDP which exceed the requirements of the Florida Rules of Civil Procedure or Florida law.

J. BDP objects to providing information to the extent that such information is already in the public record before the Commission.

K. BDP objects to each request to the extent that it seeks information that BDP is prohibited from disclosing pursuant to §364.24, Florida Statutes.

Each of the objections to requests set forth above will be incorporated into Respondent's response to each request and is therefore deemed a "continuing objection."

Dated this 1st day of October, 1997.

Respectfully submitted,

BUSINESS DISCOUNT PLAN, INC.

By: Conora J. Podd

Michael L. Glaser #13681

Conora T. Podd #27578

HALIGMAN AND LOTTNER, P.C.

First Interstate Tower North

633 Seventeenth Street, Suite 2700

Denver, CO 80202

Telephone: (303) 292-1200

Facsimile: (303) 292-1300

OF COUNSEL:

Greg L. Eriksen

LEVINE & ERIKSEN

2560 North Santiago Blvd.

Orange, California 92667

Telephone: (714) 974-9100

Facsimile: (714) 974-8972

CERTIFICATE OF SERVICE

Docket No. 970882-TI

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail to the following parties on this First day of October, 1997.

**Michael A. Gross
Assistant Attorney General
Department of Legal Affairs
PL-01, The Capitol
Tallahassee, FL 32399-1050**

**Diana Caldwell, Esquire
Division of appeals
Florida Public Service Commission
2540 Stumard Oak Blvd.
Tallahassee, FL 32399-0850**

**Walter D'Haeseleer
Director of Communications
Florida Public Service commission
2540 Stumard Oak Blvd.
Tallahassee, FL 32399-0850**

**Charles J. Beck
Deputy Public Counsel
Office of the Public Counsel
c/o The Florida Legislature
1111 West Madison Street
Room 812
Tallahassee, FL 32399-1400**

Carra J. Padd