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May 25, 2000

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

Re: Docket No. 000601-TP

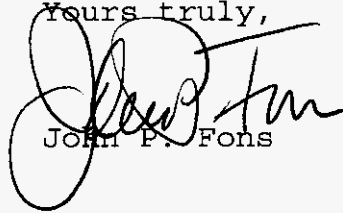
Dear Ms. Bayo:

Enclosed for filing in the above docket are the original and fifteen (15) copies of Northeast's Response to Southeastern's Objection and Motion for Protective Order.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning the same to this writer.

Thank you for your assistance in this matter.

Yours truly,



John P. Fons

Enclosures

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by Southeastern)
Services, Inc. for Termination of)
Rural LEC Exemption of Northeast)
Florida Telephone Company, Inc.)
Pursuant to 47 U.S.C. 251(f)(1)(B))
of the Telecommunications Act)
of 1996)
_____)

ORIGINAL

Docket No. 000601-TP

**NORTHEAST'S RESPONSE TO SOUTHEASTERN'S
OBJECTION AND MOTION FOR PROTECTIVE ORDER**

Northeast Florida Telephone Company, Inc. ("Northeast"), pursuant to Rule 28-106.303(1), Florida Administrative Code, responds to the Objection and Motion of Southeastern Services, Inc. ("Southeastern") for a Protective Order, stating as follows:

1. On May 17, 2000, Southeastern, by counsel, notified the Florida Public Service Commission ("FPSC" or "Commission") that Southeastern had requested an Interconnection Agreement with Northeast and requested the Commission "to eliminate Northeast's status under section 251(f)(1) of the Telecommunications Act of 1996 ("Act").

2. Section 251(f)(1) of the Act states that subsection 251(c) of the Act (requiring interconnection) does not apply to a rural telephone company until:

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FPSC-RECORDS/REPORTING

- (i) such company has received a bona fide request for interconnection, services, or network elements, and
- (ii) the State commission determines (under subparagraph (B)) that such request is not unduly economically burdensome, is technically feasible, and is consistent with section 254 (other than subsections (b)(7) and (c)(1)(D) thereof."

3. Northeast is a rural telephone company as defined by Section 3 (47 U.S.C. 153), subsection (47). Northeast provides service to less than 10,000 access lines in rural northeast Florida. Of its total access lines in service, approximately 7,400 serve residential customers. Thus, Northeast is patently entitled to a rural exemption and is entitled to maintain that exemption until and unless this Commission determines otherwise in compliance with the requirements of Section 251(f)(1) of the Act.

4. Essential to requesting the elimination of Northeast's rural exemption is the presentation to Northeast of a "bona fide" request for interconnection. Until a bona fide request has been made, Southeastern is not entitled to even request the elimination of Northeast's rural exemption. To date, while Southeastern has requested interconnection with Northeast, Southeastern has refused to provide Northeast with any information about the type of interconnection it requires, or

the services it wishes to provide, or the network elements it wants to purchase. Details of each of these items is essential for Northeast to assess whether the requested item is unduly economically burdensome, is technically feasible or is consistent with Section 254 (Universal Service). Indeed, without a complete exposition of Southeastern's plans, this Commission will be unable to make the determination required by Section 254.

5. Accordingly, Northeast, on May 23, 2000, filed its Notice to take the depositions of Southeastern's officers, Mark Woods and Kenneth Kirkland, pursuant to Rule 28-106.206, Florida Administrative Code. Northeast attempted to arrange such depositions with Southeastern's counsel, but its request was rejected.

6. Northeast, pursuant to the Act, is entitled to inquire into all facets of Southeastern's request for interconnection to determine whether Southeastern's request is a bona fide request. The standard for Northeast's inquiry is set forth in the Act; namely, whether the requested interconnection, resale or network element is "unduly economically burdensome," technically feasible," or "consistent with Section 254" (Universal Service). If, as Southeastern alleges in its Motion that Northeast has the burden of proof, Northeast has the right to show that Southeastern's request is not a bona fide request, and that its

request will be unduly economically burdensome on Northeast, technically infeasible and inconsistent with Section 254 (Universal Service). In order to sustain such burden, if such burden is in fact imposed on Northeast, Southeastern must come forward with evidence of what it wants in the way of interconnection, resale or network elements.¹ Without such information, Northeast could never hope to demonstrate that the requested interconnection, resale or network element is unduly economically burdensome, technically infeasible or inconsistent with Section 254 (Universal Service).

7. For example, one of the obligations of interconnection is reciprocal compensation. Section 252(d)(2)(A) of the Act. This obligation is imposed upon each party to compensate the other for all traffic terminated on that party's network. The rate of compensation can be symmetrical or asymmetrical, and it is based upon the cost of terminating traffic. Until Northeast knows what services Southeastern will provide, e.g., service to ISPs, Northeast has no idea what its exposure to reciprocal compensation might be and whether that exposure amounts to an undue economic burden. Accordingly, Northeast must have the right to inquire of Southeastern on its planned interconnection uses.

¹ Clearly, because the Act requires the request for interconnection to be a "bona fide" request, then Southeastern, and not Northeast, bears the burden of demonstrating that its request is a bona fide request for interconnection.

8. Southeastern contends that Northeast's request that the deponents bring copies of all work papers or other materials upon which Southeastern is relying to satisfy the requirements of Sections 251(c) and (f) of the Act is objectionable because, in Southeastern's view, Sections 251(c) and (f) of the Act apply only to Northeast. In fact, it is Southeastern who has specifically invoked Sections 251(c) and (f) of the Act in its letter to the Commission requesting the elimination of Northeast's rural exemption and requiring Northeast to enter into an interconnection agreement with Southeastern. More importantly, however, Northeast is entitled to inquire into the nature of the demanded interconnection under Section 251(c) to determine whether it is a bona fide request under Section 251(f). Southeastern, and Southeastern alone, has that information. Southeastern's position amounts to a "catch 22" for Northeastern, when Southeastern has refused, and continues to refuse, to tell Northeast anything more than it wants interconnection under the Act.

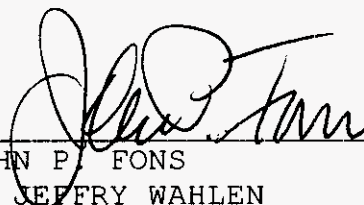
9. Southeastern is the petitioner in this case and it is a party to this docket. Under the Commission's rules and the Florida Rules of Civil Procedure, parties may obtain discovery regarding "any matter, not privileged, that is relevant to the subject matter of the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or

defense of any other party." Fla. R. Civ. P. 1.280(b)(1). Moreover, as the rule specifically states: "It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence." Id.

10. The fact that Southeastern contends that Northeast has the burden of proof in this case does not mean that Southeastern can refuse discovery requests. Northeast has shown above that its proposed depositions relate to matters clearly within the scope of discovery in this case.

WHEREFORE, having fully demonstrated that Southeastern's request for a Protective Order is unwarranted, Northeast respectfully requests that Southeastern's Objection and Motion for Protective Order be denied, and, further, that Southeastern be ordered to provide any and all information required to determine whether its request for interconnection meets the standards of Section 251(f)(1)(A) of the Act.

DATED this 25^h day of May, 2000.



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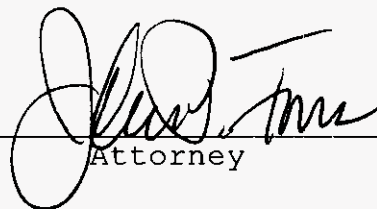
ATTORNEYS FOR NORTHEAST FLORIDA
TELEPHONE COMPANY, INC.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand delivery this 25th day of May, 2000, to the following:

Beth Keating
Division of Legal Services
Florida Public Service Comm.
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Norman H. Horton, Jr.
Messer, Caparello & Self
215 S. Monroe St., Suite 701
Tallahassee, FL 32301



Attorney

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