

ORIGINAL

McWHIRTER REEVES
ATTORNEYS AT LAW

TAMPA OFFICE:
400 NORTH TAMPA STREET, SUITE 2450
TAMPA, FLORIDA 33602
P. O. Box 3350 TAMPA, FL 33601-3350
(813) 224-0866 (813) 221-1854 FAX

PLEASE REPLY TO:

TALLAHASSEE

TALLAHASSEE OFFICE:
117 SOUTH GADSDEN
TALLAHASSEE, FLORIDA 32301
(850) 222-2525
(850) 222-5606 FAX

January 14, 2002

VIA HAND DELIVERY

Blanca S. Bayo, Director
Division of Records and Reporting
Betty Easley Conference Center
4075 Esplanade Way
Tallahassee, Florida 32399-0870

RECEIVED - FPSC
02 JAN 14 PM 4:29
COMMISSION
CLERK

Re: Docket No.: 011119-TP

Dear Ms. Bayo:

On behalf of XO Florida, Inc., enclosed for filing and distribution are the original and 15 copies of the following:

- ▶ XO Florida, Inc.'s Objections to BellSouth Telecommunications, Inc.'s First Set of Interrogatories and First Request for Production of Documents to XO Florida, Inc.

Please acknowledge receipt of the above on the extra copy of each and return the stamped copies to me. Thank you for your assistance.

Sincerely,

Vicki Gordon Kaufman

Vicki Gordon Kaufman

APP _____
CAF VGK/bae
CMP Enclosure
COM _____
CTR _____
ECR _____
LEG _____
OPC _____
PAI _____
RGO _____
SEC I
SER _____
OTH Cover ps

RECEIVED & FILED
RGM
FPSC-BUREAU OF RECORDS

McWHIRTER, REEVES, MCGLOTHLIN, DAVIDSON, DECKER, KAUFMAN, ARNOLD & STEEN, P.A.

DOCUMENT NUMBER - DATE
00501 JAN 14 2002
REC - COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by XO Florida,
Inc. for arbitration of
Unresolved issues with BellSouth
Telecommunications, Inc.

Docket No.: 011119-TP
Filed: January 14, 2001

**XO FLORIDA, INC.'S OBJECTIONS
TO BELLSOUTH TELECOMMUNICATIONS, INC.'S
FIRST SET OF INTERROGATORIES AND
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO XO FLORIDA, INC.**

Pursuant to Rule 28-106.206, Florida Administrative Code and Rules 1.340 and 1.350, Florida Rules of Civil Procedure, XO Florida, Inc. (XO) Objects to BellSouth Telecommunications, Inc's. (BellSouth) First Set of Interrogatories and First Request For Production of Documents to XO and states as follows:

General Objections

1. XO objects to any request that calls for responses or production of documents protected by the attorney-client privilege, the work product doctrine, the accountant-client privilege, the trade secret privilege, or any other applicable privilege or protection afforded by law, whether such privilege or protection appears at the time the response is first made to these requests or is later determined to be applicable based on the discovery of documents, investigation or analysis. XO in no way intends to waive any such privilege or protection.

2. In certain circumstances, XO may determine upon investigation and analysis that information or documents that respond to certain requests to which objections are not otherwise asserted are confidential and proprietary and should be provided or produced only under an appropriate confidentiality agreement and protective order, if at all. By agreeing to provide responses or produce documents in response to a request, XO is not waiving its right to insist upon appropriate protection of confidentiality by means of a confidentiality agreement and protective order. XO hereby asserts its right to require such protection of any and all responses

DOCUMENT NUMBER-DATE

00501 JAN 14 8

and/or documents that may qualify for protection under the Florida Rules of Civil Procedure and other applicable statutes, rules and legal principles.

3. XO objects to these definitions and instructions to the extent they purport to require XO to provide responses or documents or other information on diskette. XO will entertain specific requests to produce electronic copies of documents that so exist in the normal course of business in a format designed to preserve the integrity of these documents.

4. XO objects to any requests to extent they purport to require XO to prepare information or documents or perform calculations that XO has not prepared or performed in the normal course of business as an attempt to expand XO's obligations under applicable law. XO will comply with applicable law.

5. XO further objects to any requests and any definitions or instructions that purport to expand XO's obligations under applicable law. XO will comply with applicable law.

6. XO objects to any request that requires the production of "all" or "each" responsive document. It may well be impossible to assure compliance with this request with the exercise of reasonable diligence.

7. XO objects to each and every request insofar as it 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 such request. Any answers provided by XO in response to these requests will be provided subject to, and without waiver of, the foregoing objection.

8. XO objects to each and every request insofar as it is not reasonably calculated to lead to the discovery of admissible evidence and are not relevant to the subject matter of this action.

9. XO objects to each request insofar as any of them is unduly burdensome, expensive, oppressive or excessively time consuming as written.

10. For each specific objection made below, XO incorporates by reference all of the foregoing general objections into each of its specific objections as though pleaded therein.

Specific Objections to Interrogatories

Interrogatory No. 2

2. XO's Petition alleges that "BellSouth seeks to charge XO for cancellation of an order for service or network elements, without providing exceptions to when such charges would apply" and that "XO and BellSouth have never previously agreed to such charges without reasonable exceptions." See Petition at ¶¶11, 12. For each order for services or elements in the State of Florida that XO has canceled in the preceding twelve months, please:

- a. describe the order and any related documents in detail (including, without limitation, the Purchase Order Number, the date upon which the order was placed by XO, the date upon which the order was canceled by XO, and any documents XO sent to BellSouth or XO received from BellSouth regarding any cancellation charge that BellSouth billed XO for the order);
- b. describe in detail XO's reason for canceling the order; and
- c. describe any conversations any XO representative has had with any BellSouth representative regarding any cancellation charge associated with the order (including, without limitation, the date of the conversation, the parties to the conversation, the outcome of the conversation, and whether the conversation was in person or by telephone).

Objection to Interrogatory No. 2.

XO objects to this interrogatory as unduly burdensome, expensive, oppressive, and excessively time consuming. The information sought is not readily accessible for each and every order. The specific information BellSouth requests concerning every UNE order canceled would require XO to prepare detailed schedules, compilations, lists, and/or research individual Purchase Order Numbers. XO does not maintain the information requested in such formats, and does not maintain telephone logs or other records that would have the information sought concerning conversations. Subject to and without waiving the foregoing objections, XO will provide all information related to this request upon which it intends to rely at the hearing.

Interrogatory No. 3

Paragraph 4 of the Petition alleges that "BellSouth seeks to impose charges on XO if XO cancels an order because BellSouth failed to properly deliver the ordered services or elements in a timely manner." Please explain with as much specificity as possibly each and every circumstance you contend constitutes a failure by BellSouth to properly deliver the ordered services or elements in a timely manner (i.e., do you contend that BellSouth's inability to provide the service or element by the date set forth in a firm order confirmation constitute such a circumstance?

Objection to Interrogatory No. 3

XO objects to this interrogatory as unduly burdensome, expensive, oppressive, and excessively time consuming. The information sought is not readily accessible for each and every order. The specific information BellSouth requests concerning every order canceled would require XO to prepare detailed schedules, compilations, lists, and/or research individual Purchase Order Numbers. XO does not maintain the information requested in such formats, and does not maintain telephone logs or other records that would have the information sought concerning conversations. Subject to and without waiving the foregoing objections, XO will provide all information related to this request upon which it intends to rely at the hearing.

Interrogatory No. 4

Paragraph 4 of the Petition alleges that “BellSouth seeks to impose charges on XO if XO cancels an order because BellSouth failed to properly deliver the ordered services or elements in a timely manner.” For each order in the state of Florida that XO has canceled during the preceding twelve months because BellSouth allegedly failed to properly deliver the ordered services or elements in a timely manner, please:

- a. describe the order and any related documents in detail (including, without limitation, the Purchase Order Number, the date upon which the order was placed by XO, the date the date upon which the order was canceled by XO, and any documents XO sent to BellSouth or received from BellSouth regarding any cancellation charge that BellSouth billed XO for the order);
- b. state the date upon which XO contends the services or elements that are the subject of the order should have been delivered to XO and describe all facts supporting this contention; and
- c. describe any conversations any XO representative has had with any BellSouth representative regarding any cancellation charge associated with the order (including, without limitation, the date of the conversation, the parties to the conversation, the outcome of the conversation, and whether the conversation was in person or by telephone).

Objection to Interrogatory No. 4

XO objects to this interrogatory and sub-parts as unduly burdensome, expensive, oppressive, and excessively time consuming. The information sought is not readily accessible for each and every order. The specific information BellSouth requests concerning every UNE order canceled would require XO to prepare detailed schedules, compilations, lists, and/or research individual Purchase Order Numbers. XO does not maintain the information requested in such formats, and does not maintain telephone logs or other records that would have the information sought concerning conversations. Subject to and without waiving the foregoing objections, XO will provide all information related to this request upon which it intends to rely at the hearing.

Interrogatory No. 6

6. Paragraph 17 of the Petition alleges that “BellSouth’s commitments include that the element can be used to provide the particular service for which it was designed.” Please identify with specificity:

- a. each and every document (and each and every provision in each such document) in which XO contends BellSouth has made such a commitment;
- b. any conversations during which BellSouth has made such a commitment (including, without limitation, the date of the conversation, the parties to the conversation, and whether the conversation was in person or by telephone);
- c. any other manner in which BellSouth has made such a commitment.

Objection to Interrogatory No. 6

XO objects to this interrogatory and sub-parts as unduly burdensome and oppressive. BellSouth already has in its possession the information requested. Further, to the extent BellSouth seeks information which would require XO to prepare detailed compilations, lists, and/or research individual Purchase Order Numbers, XO objects to these interrogatories as unduly burdensome, expensive, oppressive, and excessively time consuming. XO does not maintain the information requested in such formats.

Subject to and without waiving the foregoing objections, XO will provide selected information responsive to the Interrogatory.

Interrogatory No. 7

Paragraph 17 of the Petition alleges that “BellSouth also commits to provisioning the element within a particular timeframe.” Please identify with specificity:

- a. each and every document (and each and every provision in each such document) in which XO contends BellSouth has made such a commitment;
- b. any conversations during which BellSouth has made such a commitment (including, without limitation, the date of the conversation, the parties to the conversation, and whether the conversation was in person or by telephone);
- c. any other manner in which BellSouth has made such a commitment.

Objection to Interrogatory No. 7

XO objects to this interrogatory and sub-parts as unduly burdensome and oppressive. BellSouth already has access to the information requested. Further, to the extent BellSouth seeks information which would require XO to prepare detailed schedules, compilations, lists, and/or research individual Purchase Order Numbers, XO objects to these interrogatories as unduly

burdensome, expensive, oppressive, and excessively time consuming. XO does not maintain the information requested in such formats.

Subject to and without waiving the foregoing objections, XO will provide selected information responsive to the Interrogatory.

Interrogatory No. 9

Paragraph 20 of the Petition alleges that “BellSouth actions, such as disconnection of an existing XO customer in error by BellSouth personnel, force XO to request an expedited order to restore service.” For each instance during the preceding twelve months in which “BellSouth actions” have forced XO to request an expedited order to restore service in the State of Florida, please:

- a. identify and describe the expedited order and any related documents in detail (including, without limitation, the Purchase Order Number, the date upon which the expedited order was placed by XO, and any documents XO sent to BellSouth or received from BellSouth regarding the expedited order);
- b. describe in detail “BellSouth actions” that allegedly forced XO to request the expedited order to restore service; and
- c. describe any conversations any XO representative has had with any BellSouth representative regarding such expedited order or the “BellSouth actions” that allegedly forced XO to request the expedited order (including, without limitation, the date of the conversation, the parties to the conversation, and whether the conversation was in person or by telephone).

Objection to Interrogatory No. 9

XO objects to this interrogatory and sub-parts as unduly burdensome and oppressive. BellSouth already has access to the information requested. Further, to the extent BellSouth seeks information which would require XO to prepare detailed schedules, compilations, lists, and/or research individual Purchase Order Numbers, XO objects to these interrogatories as unduly burdensome, expensive, oppressive, and excessively time consuming. XO does not maintain the information requested in such formats. Subject to and without waiving the foregoing objections, XO will provide all information related to this request upon which it intends to rely at the hearing.

Interrogatory No. 13

Please identify, describe, and explain in detail (using illustrative diagrams to the extent possible) any trunking and facilities arrangements between XO’s switching offices in the State of Florida that are used to jointly carry BellSouth’s traffic and the traffic of another carrier.

Objection to Interrogatory No. 13

XO objects to Interrogatory Nos. 13 and 14 on the grounds that these requests presuppose

an answer to what is at the very heart of the issue in dispute: Whether the definitions should be based upon BellSouth's historical network configuration, or based upon the function actually performed. The question wrongfully assumes XO's network configuration is the same as BellSouth's.

Interrogatory No. 14

With regard to XO's position on Issue No. 6, please explain in detail (using illustrative diagrams to the extent possible) the circumstances under which XO proposes to charge BellSouth a Common Transport rate. For each set of circumstances identified, please state the total amount XO proposes to charge BellSouth and describe in detail how such amount was calculated (including, without limitation, the identification of each rate element from Exhibit A to Attachment 3 to the Interconnection Agreement used to calculate the amount).

Objection to Interrogatory No. 14

See objection to Interrogatory 13.

Interrogatory No. 15

15. With regard to XO's position on Issue No. 6, please explain in detail (using illustrative diagrams to the extent possible) the circumstances under which XO proposes to charge BellSouth a Local Channel facility rate. For each set of circumstances identified, please state the total amount XO proposes to charge BellSouth and describe in detail how such amount was calculated (including, without limitation, the identification of each rate element from Exhibit A to Attachment 3 to the Interconnection Agreement used to calculate the amount).

Objection to Interrogatory No. 15

XO objects to Interrogatory Nos. 15 and 16 on the grounds that these requests, as framed, ask XO to make assumptions about that which is the very heart of the dispute on Issue No. 6: Whether the definitions should be based upon BellSouth's historical network configuration, or based upon the function actually performed. In these questions, BellSouth does not indicate under which definitions the answer should be based. Subject to and without waiving the foregoing objections, XO will provide all information related to this request upon which it intends to rely at the hearing.

Interrogatory No. 16

With regard to XO's position on Issue No. 6, please explain in detail (using illustrative diagrams to the extent possible) the circumstances under which XO proposes to charge BellSouth a Dedicated Interoffice Transport facility rate. For each set of circumstances identified, please state the total amount XO proposes to charge BellSouth and describe in detail how such amount was calculated (including, without limitation, the identification of each rate

element from Exhibit A to Attachment 3 to the Interconnection Agreement used to calculate the amount).

Objection to Interrogatory No. 16

See Objection to Interrogatory 15.

Interrogatory No. 18

Using the most recent data available, please state the total number of access lines (or equivalent thereof) served by XO in the State of Florida.

Objection to Interrogatory No. 18

XO objects to this Interrogatory on the grounds that the information requested is proprietary in nature. XO will provide such information to the extent it is relevant, upon execution of a Protective Agreement between the parties.

Under Section 51.711(a)(3) of the Federal Communication Commission's ("FCC") rules, to be entitled to the to local call termination at the tandem rate, an ALEC need only show that its "switch serves a geographic area comparable to the area served by [BellSouth's] tandem switch." See also, *Developing a Unified Intercarrier Compensation Regime, Notice of Proposed Rulemaking*, FCC 01-132, para. 105 (Apr. 27, 2001). (Wherein the FCC confirmed that "a carrier demonstrating that its switch serves 'a geographic area comparable to that served by the incumbent LEC's tandem switch' is entitled to the tandem interconnection rate to terminate local telecommunications traffic on its network.")

Interrogatory No. 19

For each switch XO utilizes to provide service to its end users at locations in the State of Florida, please describe the switch (including the manufacture and the model), identify the building (including without limitation the address of the building) in which the switch is located, state the total number of access lines (or equivalent thereof) in the State of Florida that are served by the switch, provide a list of addresses of the end user locations in the State of Florida that are served by the switch and state the total number of access lines (or equivalent thereof) served at each such address.

Objection to Interrogatory No. 19

XO objects to Interrogatory Nos. 19 and 20 on the grounds that the information requested is proprietary in nature, is not relevant to any issue in this proceeding, and this interrogatory reasonably calculated to lead to the discovery of admissible evidence. Further, as BellSouth already has access to the information requested, including the location of XO's switches, CLLI code, etc., XO objects on the grounds that the request is unduly burdensome and oppressive.

Interrogatory No. 20

Does XO contend that the switch(es) described in response to Interrogatory No. 19 serve a comparable geographic area to BellSouth's tandem switches in the State of Florida? If so, please state all facts, identify all documents, and identify all persons who can support this contention.

Objection to Interrogatory No. 20

See Objection to Interrogatory 19. Subject to and without waiving the foregoing objections, upon execution of a Protective Agreement between the parties, XO will provide all information related to this request upon which it intends to rely at the hearing.

Interrogatory No. 21

Has XO requested that any State Commission determined whether XO is entitled to reciprocal compensation at the tandem interconnection rate? If so, please identify each such state Commission, identify the proceeding in which XO asked the state Commission to make the determination (including the case name, docket number, and date the case was filed), identify any orders the state Commission issued that address the request, and describe with particularity the state Commission's resolution of the request.

Objection to Interrogatory No. 21

XO objects to this Interrogatory on the grounds that the information requested is not relevant to any issue in this proceeding, and this interrogatory is not reasonably calculated to lead to the discovery of admissible evidence. Rulings by other state Commissions have no bearing on the issue in dispute in Florida.

Interrogatory No. 22

22. Has any state Commission found that one or more of XO's switch(es) in that state serve a comparable geographic area to an Incumbent Local Exchange Carrier's tandem switch(es) in that state? If so, please identify each such state Commission, identify the proceeding in which the state Commission made such a finding (including the case name, docket number, and date the case was filed), and identify any orders the state Commission issued that include the finding.

Objection to Interrogatory No. 22

XO objects to this Interrogatory on the grounds that the information requested is not relevant to any issue in this proceeding, and this interrogatory is not reasonably calculated to lead to the discovery of admissible evidence. Rulings by other state Commissions have no bearing on the issue in dispute in Florida.

Interrogatory No. 25

25. Paragraph 48 of the Petition alleges that “XO’s experience with BellSouth has been to be placed in a queue to test new interface versions for months at a time.” Please describe in detail each such experience XO has had, including without limitation a description of the OSS Interface that was involved, the new version of the interface that was being implemented, the date XO initially asked BellSouth to test the new version of the interface, the date BellSouth began testing the new version of the interface with XO, the date such testing was completed, and the date that BellSouth “discontinued[d] any and all prior versions” of the interface. See Petition at ¶47.

Objection to Interrogatory No. 25

XO objects to Interrogatories 25, 26 and 27 as unduly burdensome and oppressive. BellSouth already has access to the information requested, including information concerning its testing of its interface versions. Further, to the extent BellSouth seeks information which would require XO to prepare detailed schedules, compilations, lists, and/or research individual Purchase Order Numbers, XO objects to this interrogatory as unduly burdensome, expensive, oppressive, and excessively time consuming. XO does not maintain the information requested in such formats.

Subject to and without waiving the foregoing objections, XO will provide all information related to this request upon which it intends to rely at the hearing.

Interrogatory No. 26

26. Paragraph 48 of the Petition alleges that “BellSouth has ‘skipped’ interface versions in the past, releasing version ‘C’ before any implementation of version ‘B’ has been completed.” Please describe in detail each such experience XO has had, including without limitation a description of the OSS interface that was involved, the new version “C” of that interface that was released, the date that new version “C” was released, the version “B” of the interface that was not implemented before the release of Version “C,” and the date version “B” of the interface was released.

Objection to Interrogatory No. 26

See XO’s objection and response to Interrogatory No. 25.

Interrogatory No. 27

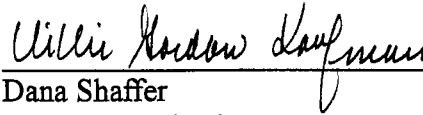
27. For each experience described in response to Interrogatory No. 26, please describe any conversations any XO representative has had with any BellSouth representative regarding each such instance (including, without limitation, the date of the conversation, the parties to the conversation, the outcome of the conversation, and whether the conversation was in person or by telephone);

Objection to Interrogatory No. 27

See XO's objection and response to Interrogatory No. 25.

Specific Objections to Requests for Production

BellSouth's Requests for Production ask XO to produce documents which identify, support or are otherwise related to each of its interrogatory questions. Therefore, XO adopts and incorporates by reference each of its above objections to BellSouth's interrogatories.



Dana Shaffer
XO Communications, Inc.
105 Molloy Street, Suite 300
Nashville, Tennessee 37201-2315
(615) 777-7700 (telephone)
(615) 345-1564 (fax)
dana.shaffer@xo.com

John Doyle, Jr.
Parker, Poe, Adams and Bernstein, LLP
First Union Capital Center, Suite 1400
150 Fayetteville Street Mall
Raleigh, NC 27802
(919) 890-4173 (telephone)
(919) 835-4541 (fax)
johndoyle@parkerpoe.com

Vicki Gordon Kaufman
McWhirter, Reeves, McGlothlin, Davidson,
Decker, Kaufman, Arnold & Steen, P.A.
117 South Gadsden Street
Tallahassee, Florida 32301
(850) 222-2525 (telephone)
(850) 222-5606 (fax)
vkaufman@mac-law.com

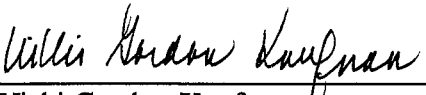
Attorneys for XO Florida, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing XO Florida, Inc.'s Objections to BellSouth Telecommunications, Inc.'s First Set of Interrogatories and First Request for Production of Documents to XO Florida, Inc., has been furnished by (*) hand delivery or by U.S. Mail on this 14th day of January, 2002, to the following:

(*) Jason Fudge
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399

Nancy B. White
James Meza III
BellSouth Telecommunications, Inc.
150 West Flagler Street
Suite 1910
Miami, FL 33130



Vicki Gordon Kaufman