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October 28, 2002

Ms. Blanca Bayó, Director
Division of the Commission Clerk
& Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

via Overnight Mail

Re: Docket No. 020119 – Petition for Expedited Review and Cancellation Of BellSouth Telecommunications, Inc.’s Key Customer Promotional Tariffs and For an Investigation Of BellSouth’s Promotional Pricing And Marketing Practices by Florida Digital Network, Inc.

Re: Docket No. 020578 -- Petition for Expedited Review and Cancellation Of BellSouth Telecommunications, Inc.’s Key Customer Promotional Tariffs by the Florida Competitive Carrier’s Association

Dear Ms. Bayó,

Please find enclosed for filing in the above dockets an original and seven (7) copies of Florida Digital Network, Inc.’s Objections to BellSouth Telecommunications, Inc.’s First Set of Interrogatories (Nos. 1-30) and First Request for Production of Documents (Nos. 1-31).

If you have any questions regarding this request, please call me at 407-835-0460. If you intend to comply with this request by providing me copies of the public records, please contact me before copying with an estimate of any costs involved. Thank you.

Sincerely,

Matthew Feil
Florida Digital Network
General Counsel

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Expedited Review	}	
and Cancellation of BellSouth	}	
Telecommunications, Inc.'s Key Customer	}	Docket No. 020119-TP
Promotional Tariffs and For an	}	
Investigation Of BellSouth's Promotional	}	
Pricing And Marketing Practices by	}	
Florida Digital Network, Inc.	}	
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In Re: Petition for Expedited Review	}	
and Cancellation of BellSouth	}	
Telecommunications, Inc.'s Key Customer	}	Docket No. 020578-TP
Promotional Tariffs by the Florida	}	
Competitive Carrier's Association	}	
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**FLORIDA DIGITAL NETWORK, INC.'S OBJECTIONS TO
BELLSOUTH TELECOMMUNICATIONS, INC.'S FIRST SET OF
INTERROGATORIES (NOS. 1-30) AND FIRST REQUEST FOR PRODUCTION
OF DOCUMENTS (NO. 1-31)**

Florida Digital Network, Inc. ("FDN"), pursuant to Rule 28-106.206, Florida Administrative Code and Rules 1.340 and 1.280, Florida Rules of Civil Procedure, hereby submits the following Objections to BellSouth Telecommunications, Inc.'s First Set of Interrogatories (Nos. 1-30) and First Request for Production of Documents (Nos. 1-31) dated October 17, 2002.

The objections stated herein are preliminary in nature and are made at this time to comply with the 10-day requirement set forth in Order No. PSC-02-1295-PCO-TP issued on September 23, 2002, by the Florida Public Service Commission ("Commission").

Should additional grounds for objection be discovered as FDN prepares its answers to the

above-referenced Interrogatories and Requests, FDN reserves the right to supplement, revise, or modify its objections at the time it serves its responses.

GENERAL OBJECTIONS

1. FDN objects to each Interrogatory and Request to the extent that it seeks to impose an obligation on FDN to respond on behalf of subsidiaries, affiliates, or other persons that are not parties to this case on the grounds that such Interrogatory and Request is overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules.

2. FDN objects to each Interrogatory and Request to the extent that it is intended to apply to matters other than those directly at issue in this proceeding. FDN objects to each such Interrogatory and Request as being irrelevant, overly broad, unduly burdensome, and oppressive.

3. FDN objects to each Interrogatory and Request to the extent that it requests information that is exempt from discovery by virtue of the attorney-client privilege, work product privilege, or other applicable privilege.

4. FDN objects to each Interrogatory and Request to the extent that it is vague, ambiguous, overly broad, imprecise, or to the extent that it utilizes terms that are subject to multiple interpretations but are not properly defined or

explained for purposes of these Interrogatories. Answers, if any, provided by FDN in response to these Interrogatories will be provided subject to, and without waiver of, the foregoing objection.

5. FDN objects to each Interrogatory and Request to the extent that it is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this action. FDN will attempt to note in here and/or in its responses each instance where this objection applies.

6. FDN objects to providing information to the extent that such information is already in the public record before the Commission or in the possession of the party propounding the discovery.

7. FDN objects to each Interrogatory and Request to the extent that it seeks to impose obligations on FDN that exceed the requirements of the Florida Rules of Civil Procedure or Florida Law.

8. FDN objects to each Interrogatory and Request to the extent that responding to it would be unduly burdensome, expensive, oppressive, or excessively time consuming.

9. FDN objects to each Interrogatory and Request to the extent that it is not limited to any stated period of time and, therefore is overly broad and unduly burdensome.

10. FDN is a small corporation with employees located in different locations in Florida. In the course of its business, FDN creates documents that are not subject to Commission or FCC retention of records requirements. These documents may be kept in different locations and may be moved from site to site as employees change jobs or as the business is reorganized. Therefore, it is possible that not every document will be identified in response to these requests. To the extent an Interrogatory or Request is not otherwise objectionable, FDN will conduct a search of the files that are reasonably expected to contain the requested information. To the extent that the Interrogatories and Request purport to require more, FDN objects on the grounds that compliance would impose an undue burden or expense.

11. In certain circumstances, FDN may determine upon investigation and analysis that information responsive to certain discovery requests to which objections are not otherwise asserted are confidential and proprietary and should not be produced at all or should be produced only under an appropriate confidentiality agreement and protective order. By agreeing to provide such information in response to such a discovery request, FDN is not waiving its right to insist upon appropriate protection of confidentiality by means of a

confidentiality agreement and protective order. FDN hereby asserts its right to require such protection of any and all documents that may qualify for protection under the Florida Rules of Civil Procedure and other applicable statutes, rules and legal requirements.

12. FDN objects to any discovery requests to the extent any definitions or instructions purport to expand FDN's obligations under applicable law. FDN will comply with applicable law.

13. FDN objects to the discovery requests to the extent they purport to require FDN to conduct any analysis or create information not prepared by FDN or its consultants in preparation for this case. FDN will only comply with its obligations under applicable law.

14. For each specific objection below, FDN incorporates all of the foregoing general objections as though pleaded therein.

SPECIFIC OBJECTIONS

1. Interrogatory No. 1 and Document Request No. 1. FDN objects to this as being vague, ambiguous, overly broad, and imprecise. The entire Interrogatory, and subpart (e) in particular, as well as the related Request, are objectionable as being akin to asking a party to identify and produce any

document that may have anything to do with the subject case, and on that basis, is not permissible under the general rules of discovery, as it leaves a party to guess at what specific material is sought. Moreover, to the extent the Interrogatory (and instructions) asks FDN to catalogue documents, FDN is not required by law to undertake such a task and doing so would be overly burdensome and oppressive.

2. Interrogatory No. 2 and Document Request No. 2. FDN objects to this Interrogatory and the related Request to the extent the Interrogatory and Request seek discovery of legal opinions, legal theories and/or legal research for the case, all of which are attorney work product privileged and/or attorney-client privileged matter and therefore not subject to discovery.

3. Interrogatory No. 3 and Document Request No. 3. FDN incorporates herein FDN's objections to Interrogatory No. 2 and Document Request No. 2.

4. Interrogatory No. 4 and Document Request No. 4. FDN incorporates herein FDN's objections to Interrogatory No. 2 and Document Request No. 2.

5. Interrogatory No. 5 and Document Request No. 5. FDN objects to this Interrogatory and the related Request on the basis that they are not reasonably calculated to lead to the discovery of admissible evidence.

(a) If the Commission permits BellSouth to discover details of the ALECs' businesses, products, practices and operations through discovery requests such as these, the Commission will effectively permit BellSouth to put the ALECs on trial in this proceeding with the following results: (1) the Commission will be diverted from whether **BellSouth's** pricing/conduct is or may be anticompetitive as contemplated by the list of issues in this proceeding, and (2) the Commission will create a chilling effect on ALECs with meritorious complaints against BellSouth.

(b) BellSouth and the ALECs occupy completely different positions in the Florida telecommunications market. BellSouth has unquestionable market power in Florida, and the ALECs have none. For that reason alone, BellSouth's promotional prices and conduct (the real subject matter of this proceeding) are not generally analogous to ALEC products or practices. ALECs operate under a completely different business model and for a different business purpose than does BellSouth. Permitting BellSouth discovery as posed here is the equivalent of deeming a small ALEC's investment and rates of return discoverable in an ILEC UNE price setting case even though the ALEC business does not share requisite commonality with the ILEC. Further, the issues in this case concern BellSouth and its promotional tariffs and related conduct, **not** the ALECs' businesses or operations. BellSouth is accused of wrongdoing

aided primarily by its dominant market power and position. Permitting discovery of the ALECs' businesses, products, practices and operations in this proceeding does not allow BellSouth to obtain legitimate explanation of the ALEC's arguments in this case; rather, it is a declaration that everything about the ALEC, the ALEC financials, investment, revenues, returns, methods of operation, etc. will be discoverable. By allowing BellSouth to discover details of ALEC business, products, practices and operations, the Commission allows the victims to be on trial during the discovery phase. The Commission must draw the line based on (1) the fundamental differences between ILECs and ALECs, (2) BellSouth's conduct being the focal point of this docket. If the Commission does not, BellSouth will have license to explore practically anything it wants about the ALECs' businesses, practices, products and operations. The Commission cannot grant BellSouth such unwarranted license as though the ALEC's, not BellSouth, have been accused of some wrongdoing.

(c) FDN further objects to this Interrogatory and related Request because FDN's tariff filings are in the public domain and accessible to BellSouth in any event. FDN should not have to produce for BellSouth what BellSouth can produce and has produced for itself. Further, subpart (b) of the Interrogatory (and Request) asks FDN to catalogue (and produce) every contract it has ever entered with a customer since 2001. Aside from not being reasonably calculated to lead to the

discovery of admissible evidence, such a request is oppressive and overly burdensome, as it would require dozens of FDN employees to search for and pull thousands of pages of documents from multiple locations.

6. Interrogatory No. 6 and Document Request No. 6. FDN incorporates herein FDN's objections to Interrogatory No. 2 and Document Request No. 2.

7. Interrogatory No. 7 and Document Request No. 7. FDN objects to this Interrogatory and the related Request on the basis that they are not reasonably calculated to lead to the discovery of admissible evidence. FDN incorporates herein FDN's objections to Interrogatory No. 5 and Document Request No. 5, above, subparts (a) and (b).

8. Interrogatory No. 8 and Document Request No. 8. FDN incorporates herein FDN's objections to Interrogatory No. 2 and Document Request No. 2.

9. Interrogatory No. 9 and Document Request No. 9. FDN incorporates herein FDN's objections to Interrogatory No. 2 and Document Request No. 2.

10. Interrogatory No. 10 and Document Request No. 10. FDN incorporates herein FDN's objections to Interrogatory No. 2 and Document Request No. 2.

11. Interrogatory No. 11 and Document Request No. 11. FDN incorporates herein FDN's objections to Interrogatory No. 2 and Document Request No. 2.

12. Interrogatory No. 14 and Document Request No. 14. FDN incorporates herein FDN's objections to Interrogatory No. 2 and Document Request No. 2.

13. Interrogatory No. 15 and Document Request No. 15. FDN incorporates herein FDN's objections to Interrogatory No. 2 and Document Request No. 2.

14. Interrogatory No. 17 and Document Request No. 17. FDN incorporates FDN's objections to Interrogatory No. 2 and Document Request No. 2.

15. Interrogatory No. 18 and Document Request No. 18. FDN objects to this Interrogatory and the related Request on the basis that they are not reasonably calculated to lead to the discovery of admissible evidence. FDN

incorporates herein FDN's objections to Interrogatory No. 5 and Document Request No. 5, above, subparts (a) and (b).

16. Interrogatory No. 19 and Document Request No. 19. FDN objects to this Interrogatory and the related Request on the basis that they are not reasonably calculated to lead to the discovery of admissible evidence. FDN incorporates herein FDN's objections to Interrogatory No. 5 and Document Request No. 5, above, subparts (a) and (b).

17. Interrogatory No. 20 and Document Request No. 20. FDN objects to this Interrogatory and the related Request on the basis that they are not reasonably calculated to lead to the discovery of admissible evidence. FDN incorporates herein FDN's objections to Interrogatory No. 5 and Document Request No. 5, above, subparts (a) and (b).

18. Interrogatory No. 21 and Document Request No. 21. FDN objects to this Interrogatory and the related Request on the basis that they are not reasonably calculated to lead to the discovery of admissible evidence. FDN incorporates herein FDN's objections to Interrogatory No. 5 and Document Request No. 5, above, subparts (a) and (b).

19. Interrogatory No. 22 and Document Request No. 22. FDN objects to this Interrogatory and the related Request on the basis that they are not

reasonably calculated to lead to the discovery of admissible evidence. FDN incorporates herein FDN's objections to Interrogatory No. 5 and Document Request No. 5, above, subparts (a) and (b).

20. Interrogatory No. 23 and Document Request No. 23. FDN objects to this Interrogatory and the related Request on the basis that they are not reasonably calculated to lead to the discovery of admissible evidence. FDN incorporates herein FDN's objections to Interrogatory No. 5 and Document Request No. 5, above, subparts (a) and (b).

21. Interrogatory No. 24 and Document Request No. 24. FDN objects to this Interrogatory and the related Request on the basis that they are not reasonably calculated to lead to the discovery of admissible evidence. FDN incorporates herein FDN's objections to Interrogatory No. 5 and Document Request No. 5, above, subparts (a) and (b).

22. Interrogatory No. 26 and Document Request No. 26. FDN objects to this Interrogatory and the related Request on the basis that they are not reasonably calculated to lead to the discovery of admissible evidence. FDN incorporates herein FDN's objections to Interrogatory No. 5 and Document Request No. 5, above, subparts (a) and (b).

23. Interrogatory No. 27 and Document Request No. 27. FDN objects to this Interrogatory and the related Request on the basis that they are not reasonably calculated to lead to the discovery of admissible evidence. FDN incorporates herein FDN's objections to Interrogatory No. 5 and Document Request No. 5, above, subparts (a) and (b).

24. Interrogatory No. 29 and Document Request No. 29. FDN objects to this Interrogatory and the related Request on the basis that they are not reasonably calculated to lead to the discovery of admissible evidence. FDN incorporates herein FDN's objections to Interrogatory No. 5 and Document Request No. 5, above, subparts (a) and (b).

25. Interrogatory No. 30 and Document Request No. 30. FDN objects to this Interrogatory and the related Request on the basis that they are not reasonably calculated to lead to the discovery of admissible evidence. FDN incorporates herein FDN's objections to Interrogatory No. 5 and Document Request No. 5, above, subparts (a) and (b).

26. Document Request No. 31. FDN objects to this Request on the basis that it is not reasonably calculated to lead to the discovery of admissible evidence. FDN incorporates herein FDN's objections to Interrogatory No. 5 and Document Request No. 5, above, subparts (a) and (b).

Respectfully submitted, this 28 day of Oct 2002.

A handwritten signature in cursive script, reading "Matthew Feil". The signature is written in black ink and is positioned above a horizontal line.

Matthew Feil
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent by e-mail and regular mail to the persons listed below, other than those marked with an (*) who have been sent a copy via overnight mail, this 28 day of October, 2002.

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A handwritten signature in black ink, appearing to read "Matthew Feil", written in a cursive style. The signature is positioned above a horizontal line.

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