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December 5, 2002

Ms. Blanca Bayo, Director
Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

HAND DELIVERY

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02 DEC -5 PM 4:29
COMMISSION CLERK

Re: Docket Nos. 020119-TP and 020578-TP

Dear Ms. Bayo:

Enclosed herewith for filing in the above-referenced docket on behalf of US LEC of Florida Inc., XO Florida, Inc. and Time Warner Telecom of Florida, L.P. ("Joint ALECs") are the following documents:

- 1. Original and fifteen copies of the Joint ALECs' Response to BellSouth Telecommunications, Inc.'s Motion to Compel; and
2. A disk in Word Perfect 6.0 containing a copy of the Response.

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

Thank you for your assistance with this filing.

Respectfully submitted,

Martin P. McDonnell
Martin P. McDonnell

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FPSC-BUREAU OF RECORDS 13318 DEC-5 02

FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In Re: Petition of Florida Digital Network, )  
Inc., for Expedited Review and Cancellation )  
of BellSouth's Telecommunications, Inc.'s )  
Key Customer Promotional Tariffs )  
and For an Investigation of BellSouth )  
Telecommunications, Inc.'s Promotional )  
Pricing and Marketing Practices. )

Docket No. 020119-TP

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In re: Petition of the Florida Competitive Carriers )  
Association for Expedited Review and Cancellation )  
of BellSouth Telecommunications, Inc.'s Key )  
Customer Promotional Tariffs. )

Docket No. 020578-TP

Dated: December 5, 2002

**RESPONSE OF US LEC OF FLORIDA INC.,  
TIME WARNER TELECOM OF FLORIDA, L.P.  
AND XO FLORIDA, INC.  
TO BELLSOUTH TELECOMMUNICATION, INC.'S  
MOTION TO COMPEL**

Come Now US LEC of Florida Inc. ("US LEC"), Time Warner Telecom of Florida, L.P. ("Time Warner") and XO Florida, Inc. ("XO"), (hereinafter "Joint ALECs"), by and through undersigned counsel and pursuant to Rule 28-106.206, Florida Administrative Code, and file this response to BellSouth Telecommunications, Inc.'s ("BellSouth") Motion to Compel filed November 21, 2002.

On October 17, 2002, BellSouth served its First Set of Interrogatories and First Set of Production of Documents upon the Joint ALECs. On October 28, 2002, Joint ALECs separately filed General Objections and Specific Objections to each of BellSouth's First Set of Interrogatories and First Set of Production of Documents.

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## **BACKGROUND**

On February 14, 2002, Florida Digital Network, Inc. (“FDN”) filed a Petition for Expedited Review and Cancellation of BellSouth’s Key Customer Promotional Tariffs. In the Petition, FDN asks the Commission to immediately review and cancel or, alternatively, to suspend or postpone BellSouth’s Key Customer tariffs pursuant to Sections 364.3381(3), 364.01(4)(a)(c) and (g), 364.015(6), 364.08, 364.09, 364.10 and 364.3381(3), Florida Statutes. In Docket No. 020578-TP, which has since been consolidated in the instant docket, the Florida Competitive Carriers Association (“FCCA”) petitioned the Commission for an expedited review and cancellation of BellSouth’s key customer promotional tariffs. In the Petitions, FDN and the FCCA asked the Commission to investigate *BellSouth’s* tariffs. Neither petition addressed any tariffed or untariffed products of any Florida carriers other than BellSouth. On March 4, 2002, Joint ALECs petitioned to intervene in the docket. On March 21, 2002, in Order No. PSC-02-0383-PCO-TP, the Commission granted the Joint ALECs’ petition to intervene.

On October 23, 2002, in Order No. PSC-02-1295-PCO-TP, the Commission entered its Order Establishing Procedure in the instant consolidated docket and attached, as Attachment A thereto, the Commission’s tentative issues list. In the tentative issues list, Issue A addressed the Commission’s jurisdiction in the matter. All of the remaining issues (Issues 1 through 6) addressed only BellSouth’s tariffs.

## **GENERAL OBJECTIONS**

BellSouth’s discovery requests are not relevant to any issue in this docket. As stated in BellSouth’s Motion to Compel, BellSouth has served upon Joint ALECs significant discovery requests. These requests are completely and totally unrelated to BellSouth’s key customer tariff, or

any other BellSouth tariff. For example:

- Interrogatory No. 5 requests all sections of your (Joint ALECs) Florida tariffs that set forth termination liability terms and conditions;
- Interrogatory No. 7 asks whether you (Joint ALECs) have made any telecommunications service offerings available to Florida end users;
- Interrogatory No. 18 asks do you (Joint ALECs) offer telecommunications services to any business end users in Florida at rates, terms, and/or conditions that vary from the rates, terms, and/or conditions set forth in the tariffs you have filed with the Florida Public Service Commission;
- Interrogatory No. 19 requests Joint ALECs to identify all documents, without limitation, that compare the rates or prices of any of your (Joint ALECs) telecommunications products and/or services to the rates or prices available for any telecommunications products and/or services offered by BellSouth and any other ILEC, any ALEC or any other telecommunications service provider;
- Interrogatory No. 20 asks do you (Joint ALECs) offer any telecommunications services to business customers under contract;
- Interrogatory No. 26 asks the Joint ALECs to provide the number of business customers and/or access lines you (Joint ALECs) served in the State of Florida as of the end of each month from January 2001 to the present;
- Interrogatory No. 27 requests that the Joint ALECs provide the total number of business customers and/or business access lines you (Joint ALECs) served as of the end of each month from January 2001 to the present and the number of business customers and/or business access lines you (Joint ALECs) served as of the end of each month from January 2001 to the present under contract;
- Interrogatory No. 28 asks the Joint ALECs to provide any documents that discuss, address or relate to your (Joint ALECs) share of the Florida local telecommunications market
- Interrogatory No. 29 asks whether you (Joint ALECs) sought to fund your telecommunications operations in the State of Florida by borrowing money.

The above discovery requests are not relevant to any issues in the Issues List, and are not relevant to any issues raised by FDN, FCCA, the Joint ALECs or BellSouth in the instant docket.

Nonetheless, in BellSouth's Motion to Compel, it asserts that the discovery is relevant based upon prefiled direct testimony of witnesses sponsored by parties other than Joint ALECs. (Motion to Compel, page 7).

The Commission should scrupulously review BellSouth's discovery requests to determine their relevancy as the Joint ALECs and other small carriers must expend significant resources to respond to such onerous requests. In determining the relevance of discovery requests, the Commission should look to the issues raised in the Petitions, the answers of BellSouth, and the issues list formulated by Commission staff and issued by the Commission. Nowhere in any of these relevant documents do the issues arise regarding the Joint ALECs' tariffed products, Joint ALECs' customers, or Joint ALECs' business or marketing practices.

The sole purpose of this docket is to determine the legality of BellSouth's key customer tariff. BellSouth's key customer tariff is either legal or illegal, irrespective of the Joint ALECs' marketing practices or the practices of any other Florida ILEC or ALEC. In fact, the instant petitions may well have been brought by affected parties other than ALECs, and the Commission would still be required to review BellSouth's key customer tariff to determine *its* legality.

BellSouth, in its Motion to Compel, readily admits that the Commission's duty in this docket is to determine whether BellSouth's tariff complies with certain Florida Statutes. In the Motion to Compel BellSouth asserts "the Commission must resolve whether BellSouth's offerings comply with certain Florida Statutes." (Motion to Compel, pg. 5). Nonetheless, in the very next sentence of the Motion to Compel, BellSouth attempts to bootstrap irrelevant discovery requests in this docket by stating:

One way for the Commission to *determine the level of competition and types of activities occurring in the marketplace* is to compare BellSouth's offerings against the type of offerings offered by ALECs, to evaluate ALEC growth, particularly growth in the hotwire centers in which BellSouth's promotions were available and over same type periods during which BellSouth's promotions were offered. (Motion to Compel, pg. 5) (emphasis added.)

BellSouth's misguided understanding of the Commission's role in this docket is exemplified in the above statement wherein BellSouth seeks the Commission to "determine the level of competition and types of activities occurring in the marketplace." Such a profound and unsupported expansion of the "issues" in the instant docket do not justify discovery of information wholly irrelevant to the issues as framed.

In addition to the above objections, Joint ALECs make the following General Objections to the Interrogatories and incorporates each of the General Objections into its specific objections to each Interrogatory.

1. Joint ALECs object to the Interrogatories to the extent they seek information that is privileged or otherwise exempt from discovery, including but not limited to documents or information protected by the attorney-client privilege, the work-product doctrine, or the trade-secrets doctrine.

2. BellSouth asserts in its First Set of Interrogatories to Joint ALECs that "these interrogatories are continuing in nature and require supplemental responses should information unknown to you at the time you serve your responses to these interrogatories subsequently become known or should your initial response be incorrect or untrue. Pursuant to Florida Rule of Civil Procedure 1.280(e), Joint ALECs object to BellSouth's request to require supplemental responses.

Fla.R.Civ.P. 1.280(e) states that:

a party who has responded to a request for discovery with a response that was complete when made is under no duty to supplement the response to include information thereafter acquired.

3. Joint ALECs expressly reserve and do not waive any and all objections they may have to the admissibility, authenticity or relevancy of the responses produced pursuant to the Requests.

4. BellSouth's Requests for Production of Documents ask only for documents that are identified or supporting Joint ALECs' responses to Interrogatories. Therefore, Joint ALECs incorporates all of their objections to BellSouth's Interrogatories in all of their objections to BellSouth's corresponding Requests for Production of Documents.

#### **SPECIFIC OBJECTIONS TO REQUESTS**

**Interrogatory No. 1:** Please identify all documents (including without limitation meeting minutes, e-mails, memos, and letters) that discuss or that are related to: (a) the FDN Petition; (b) the FCCA Petition; (c) the January Key Customer offering; (d) the June Key Customer Offering; or (e) any matter that is at issue in this proceeding.

#### **Objection:**

Joint ALECs object to this request on grounds that it is unduly burdensome, vague and ambiguous, overbroad, and seeks discovery of work product and commercially sensitive, proprietary and confidential information.

**Interrogatory No. 2:** Please explain in detail how you contend Section 364.01, Florida Statutes, should be interpreted in evaluation of each of the following items for compliance with Chapter 364, Florida Statutes: (a) a BellSouth promotional tariff; (b) an ALEC promotional tariff; (c) a BellSouth tariff that is not a promotional tariff; and (d) an ALEC tariff that is not a promotional

tariff.

**Objection:**

Joint ALECs object to this request as it calls for a legal conclusion. Fla.R.Civ.P. 1.280(b)(3) specifically prohibits disclosure of the information requested and states, in pertinent part:

In ordering discovery of the materials when the required showing has been made, the court shall protect against disclosure of the mental impressions, conclusion, opinions, or legal theories of an attorney or other representative of a party concerning the litigation.

Joint ALECs' contentions regarding how BellSouth's tariffs violate Section 364.01, Florida Statutes, are "mental impressions, conclusions, opinions and legal theories" and are therefore protected from disclosure in response to discovery requests. Joint ALECs' contentions regarding how BellSouth's tariffs violate Section 364.01, Florida Statutes were addressed pursuant to Order No. PSC-02-1295-PCO-TP, issued September 23, 2002, in Joint ALECs' prehearing statement and will be again addressed in the posthearing briefs.

Also, Fla. R.Civ.P. 1.280(b)(1) limits the scope of discovery and states, in pertinent part: "Parties may obtain discovery regarding any *matter*, not privileged, that is relevant to the subject matter of the pending action...." Black's Law Dictionary defines *matter*, in pertinent part, as "substantial facts forming [the] basis of claim or defense; facts material to issue..." It is evident that the term "matter", as used in Rule 1.280(b), does not contemplate unwarranted inquiries into the mental processes of counsel regarding opinions or conclusions as to the law and theory applicable to the case. Such information is merely counsel's impression and legal opinion and does not constitute facts germane to the cause upon which the issues are drawn between the parties. Fla.R.Civ.P. 1.280 limits discovery to *facts* as opposed to *law or opinion*. Florida courts have



consistently and uniformly held that the term *matter* as used in Rule 1.280 is specifically limited to facts; distinguished from law or opinion. See *Boucher v. Pure Oil Company*, 101 So.2d 408 (Fla. 1<sup>st</sup> DCA 1958), *Hurley v. Werly*, 203 So.2d 530 (Fla. 2<sup>nd</sup> DCA 1967).

**Interrogatory No. 3:** (a) Describe in detail all criteria you contend should be established to determine whether the pricing of a BellSouth promotional tariff offering is unfair, anticompetitive, or discriminatory.

(b) Identify all authority (including without limitation federal and state statutes, federal and state agency decisions, and federal and state case law) that supports each of the criteria set forth in your response to (a).

(c) Please apply each of the criteria identified in your response to (a) to the January Key Customer offering, explaining in detail whether and why the January Key Customer offering meets or fails to meet each of the criteria.

(d) Please apply each of the criteria identified in your response to (a) to the June Key Customer offering, explaining in detail whether and why the June Key Customer offering meets or fails to meet each of the criteria.

**Objection:**

Joint ALECs object to this request on the grounds that it is vague and ambiguous, unduly burdensome, seeks discovery of mental impressions, conclusions, opinions or legal theories of an attorney or a party concerning litigation. Joint ALECs also incorporate in full the objection to Interrogatory No. 2.

**Interrogatory No. 4:**

(a) Please describe in detail all criteria you contend should be established to determine

whether the termination liability terms and conditions of a BellSouth promotional tariff offering are unfair, anticompetitive, or discriminatory.

(b) Identify all authority (including without limitation federal and state statutes, federal and state agency decisions, and federal and state case law) that supports each of the criteria set forth in your response to (a).

(c) Please apply each of the criteria identified in your response to (a) to the termination liability terms and conditions of the January Key Customer offering, explaining in detail whether and why the January Key Customer offering meets or fails to meet each of the criteria.

(d) Please state whether, in light of your response to (c), the termination liability terms and conditions of the January Key Customer offering are unfair, uncompetitive, or discriminatory and explain your answer in detail.

(e) Please apply each of the criteria identified in your response to (a) to the termination liability terms and conditions of the June Key Customer offering, explaining in detail whether and why the June Key Customer offering meets or fails to meet each of the criteria.

(f) Please state whether, in light of your response to (e), the termination liability terms and conditions of the June Key Customer offering are unfair, anticompetitive, or discriminatory and explain your answer in detail.

**Objection:**

Joint ALECs object to this request on the grounds of relevance, that it is vague and ambiguous, and unduly burdensome. Also Fla.R.Civ.P. 1.280(b)(3) specifically protects against disclosure of the mental impressions, conclusions, opinions, or legal theories of a party concerning the litigation. Joint ALECs incorporate in full the objection to Interrogatory No. 2.

**Interrogatory No. 5:** Please identify (a) each section of your Florida tariffs that has been in effect at any time after January 1, 2001 that sets forth termination liability terms and conditions; and (b) any contract for telecommunications services between you and any Florida end user for telecommunications services that has been in effect at any time after January 1, 2001 and that sets forth termination liability terms and conditions.

**Objection:**

Joint ALECs object on the grounds of relevance. BellSouth has not filed any answer or counterclaim regarding any Joint ALECs tariffed product, and therefore Joint ALECs' tariffed products are not at issue in this proceeding. The petitions filed in the instant docket assert that BellSouth's Key Customer promotional tariffs violate Section 364.3381, Florida Statutes. Section 364.3381 specifically prohibits the anticompetitive and predatory pricing behaviors of incumbent local exchange carriers. Joint ALECs' promotional tariffs are irrelevant to the Commission's determination of the issues presented in the petition. Also, Joint ALECs' Florida tariffs are public records available to BellSouth.

**Interrogatory No. 6:** (a) Please describe in detail all criteria you contend should be established to determine whether the duration (term of individual contracts, length and succession of promotions) of a BellSouth promotional tariff offering is unfair, anticompetitive, or discriminatory.

(b) Please identify all authority (including without limitation federal and state statutes, federal and state agency decisions, and federal and state case law) that supports each of the criteria set forth in your response to (a).

(c) Please apply each of the criteria identified in your response (a) to the duration (term

of individual contracts, length and succession of promotions) of the January Key Customer offering, explaining in detail whether and why the January Key Customer offering meets or fails to meet each of the criteria.

(d) Please state whether, in light of your response to (c), the duration (term of individual contracts, length and succession of promotions) the January Key Customer offering is unfair, anticompetitive, or discriminatory and explain your answer in detail.

(e) Please apply each of the criteria identified in your response to (a) to the duration (term of individual contracts, length and succession of promotions) of the June Key Customer offering, explaining in detail whether and why the June Key Customer offering meets or fails to meet each of the criteria.

(f) Please state whether, in light of your response to (e), the duration (term of individual contracts, length and succession of promotions) of the June Key Customer offering is unfair, anticompetitive, or discriminatory and explain your answer in detail.

**Objection:**

Joint ALECs object on the grounds of relevance, that it is vague and ambiguous, and unduly burdensome. Pursuant to Florida Rule of Civil Procedure 1.280(b)(3) Joint ALECs are under no obligation to detail any criteria Joint ALECs contends should be established to determine whether BellSouth's tariff is unfair, anticompetitive or discriminatory. Such information constitutes "mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation" and is explicitly protected from disclosure pursuant to Rule 1.280(b)(3). Joint ALECs incorporate in full the objection to Interrogatory No. 2.

**Interrogatory No. 7:** (a) Please state whether you have made any telecommunications service offerings available to Florida end users for a limited time only (i.e. in order to avail itself of the offer, the end user was required to sign up for or otherwise accept the offer before a given date or within a given amount of time after the offer was extended).

(b) If your response to (a) is anything other than an unqualified “no,” please describe each such limited-time offer in detail and identify any and all documents associated with each such limited-time offer (including without limitation tariffs, documents sent to or filed with the Commission and/or its Staff, contracts, etc.).

**Objection:**

Joint ALECs object on the grounds of relevance, and incorporate herein Joint ALECs’ objection to BellSouth Interrogatory No. 5.

**Interrogatory No. 8:** (a) Please describe in detail all criteria you contend should be established to determine whether the billing conditions or restrictions of a BellSouth promotional tariff are unfair, anticompetitive, or discriminatory.

(b) Please identify all authority (including without limitation federal and state statutes, federal and state agency decisions, and federal and state case law) that supports each of the criteria set forth in your response to (a).

(c) Please identify with specificity each and every provision of the January Key Customer offering that you contend constitutes “billing conditions or restrictions.”

(d) Please apply each of the criteria identified in your response to (a) to each of the “billing conditions or restrictions” identified in your response to (c), explaining in detail whether and why each of the “billing conditions or restrictions” meets or fails to meet each of the criteria.

(e) With regard to each of the “billing conditions or restrictions” identified in (c), please state whether you contend the “billing condition or restriction” is unfair, anticompetitive, or discriminatory and explain your answer in detail.

(f) Please identify with specificity each and every provision of the June Key Customer offering that you contend constitutes “billing conditions or restrictions.”

(g) Please apply each of the criteria identified in your response to (a) to each of the “billing conditions or restrictions” identified in your response to (f), explaining in detail whether and why each of the “billing conditions or restrictions” meets or fails to meet each of the criteria.

(h) With regard to each of the “billing conditions or restrictions” identified in (g), please state whether you contend the “billing condition or restriction” is unfair, anticompetitive, or discriminatory and explain your answer in detail.

**Objection:**

Joint ALECs object on the grounds that the requested information is protected against disclosure pursuant to Florida Rule of Civil Procedure 1.280(b)(3), and Joint ALECs incorporate herein the objection to Interrogatory No. 2.

**Interrogatory No. 9:** (a) Please describe in detail all criteria you contend should be established to determine whether geographic targeting in a BellSouth promotional tariff offering is unfair, anticompetitive, or discriminatory.

(b) Please identify all authority (including without limitation federal and state statutes, federal and state agency decisions, and federal and state case law) that supports each of the criteria set forth in your response to (a).

(c) Please apply each of the criteria identified in your response to (a) the geographic targeting in the January Key Customer offering, explaining in detail whether and why the geographic targeting in the January Key Customer offering meets or fails to meet each of the criteria.

(d) Please state whether, in light of the your response to (c), the geographic targeting in the January Key Customer offerings unfair, anticompetitive, or discriminatory and explain your answer in detail.

(e) Please apply each of the criteria identified in your response to (a) to the geographic targeting in the June Key Customer offering, explaining in detail whether and why the geographic targeting in the June Key Customer offering meets or fails to meet each of the criteria.

(f) Please state whether, in light of the your response to (e), the geographic targeting in the June Key Customer offering is unfair, anticompetitive, or discriminatory and explain your answer in detail.

**Objection:**

Joint ALECs incorporate herein their objection to Interrogatory No. 2.

**Interrogatory No. 10:** (a) Please describe in detail all criteria you contend should be established to determine whether any other terms or conditions of a BellSouth promotional tariff offering are unfair, anticompetitive, or discriminatory.

(b) Please identify all authority (including without limitation federal and state statutes, federal and state agency decisions, and federal and state case law) that supports each of the criteria set forth in your response to (a).

(c) Please apply each of the criteria identified in your response to (a) to the other terms or conditions of the January Key Customer offering, explaining in detail whether and why the other

terms and conditions of the January Key Customer offering meets or fails to meet each of the criteria.

(d) Please state whether, in light of the your response to (c), any other terms and conditions of the January Key Customer offering are unfair, anticompetitive, or discriminatory and explain your answer in detail.

(e) Please apply each of the criteria identified in your response to (a) to the other terms or conditions of the June Key Customer offering, explaining in detail whether and why the other terms and conditions of the June Key Customer offering meets or fails to meet each of the criteria.

(f) Please state whether, in light of the your response to (e), any other terms and conditions of the June Key Customer offering are unfair, anticompetitive, or discriminatory and explain your answer in detail.

**Objection:**

Joint ALECs incorporate herein their objection to Interrogatory No. 2.

**Interrogatory No. 11:** (a) Please set forth in detail each and every term and condition under which BellSouth promotional tariff offerings should be made available for ALEC resale.

(b) Please identify all authority (including without limitation federal and state statutes, federal and state agency decisions, and federal and state case law) that supports your response to (a).

(c) For each term and condition set forth in your response to (a), please state whether the January Key Customer offering complies with such term and/or condition, explaining your answer in detail.

(d) For each term and condition set forth in your response to (a), please state whether the June Key Customer offering complies with such term and/or condition, explaining your answer in



detail.

**Objection:**

Joint ALECs object on the grounds of relevance, that is vague and ambiguous, unduly burdensome. Joint ALECs also incorporates herein the objection to Interrogatory No. 2.

**Interrogatory No. 12:** If you or any of your representatives have ever had any contact with BellSouth regarding the resale of any BellSouth promotional tariff offering in the state of Florida, please:

(a) State the date, time, and manner (i.e. e-mail, letter, face-to-face conversation, telephone conversation, etc.) of each such contact;

(b) Identify with specificity the BellSouth promotional tariff offering that was the subject of the contact;

(c) Identify with specificity (including without limitation name, address, and telephone number) the BellSouth representative that you contacted;

(d) Identify with specificity (including without limitation name, address, and telephone number) the person who made the contact on your behalf;

(e) Describe in detail each and every communication between you or your representatives and BellSouth's representatives with regard to the resale of the BellSouth promotional tariff offering; and

(f) Identify all documents associated with each such contact.

**Objection:**

Joint ALECs object on the grounds of relevance, that the request is vague and ambiguous, and that BellSouth already has access to the requested information. Further, Joint ALECs do not

keep such information in the ordinary course of business and it would be unduly burdensome to recreate.

**Interrogatory No. 13:** Please set forth in detail what you contend is the competitive impact, if any, of the resale of BellSouth's promotional tariff offerings.

**Objection:**

Joint ALECs incorporate herein their objection to Interrogatory No. 2.

**Interrogatory No. 14:** (a) In the context of promotional tariffs, please set forth in detail all waiting periods or other restrictions that you contend should be applicable to BellSouth and explain in detail why such waiting periods or other restrictions should apply.

(b) Please identify all authority (including without limitation federal or state statutes, federal or state agency decisions, and federal and state case law) that supports your response to (a).

**Objection:**

Joint ALECs incorporate herein their objection to Interrogatory No. 2.

**Interrogatory No. 15:** (a) In the context of marketing promotional tariffs, what restrictions do you contend should be placed on the sharing of information between BellSouth's wholesale and retail divisions?

(b) Please identify all authority (including without limitation federal and state statutes, federal and state agency decisions, and federal and state case law) that supports your response to (a).

**Objection:**

Joint ALECs incorporate herein their objection to Interrogatory No. 2.

**Interrogatory No. 16:** (a) Do you contend that with regard to the January Key Customer offering, any inappropriate sharing of information between BellSouth's wholesale and retail

divisions has occurred?

(b) If your response to (a) is anything other than an unqualified “no,” please describe in as much detail as possible each and every occurrence of such inappropriate sharing of information.

(c) Please identify all documents and describe in detail the source(s) of all information you relied upon in providing your response to (b).

(d) Do you contend that with regard to the June Key Customer offering, any inappropriate sharing of information between BellSouth’s wholesale and retail divisions has occurred?

(e) If your response to (d) is anything other than an unqualified “no,” please describe in as much detail as possible each and every occurrence of such inappropriate sharing of information.

(f) Please identify all documents and describe in detail the source(s) of all information you relied upon in providing your response to (b).

**Objection:**

Joint ALECs incorporate herein their objection to Interrogatory No. 2.

**Interrogatory No. 17:** (a) Do you contend that the January Key Customer offering has or will cause substantial and irreparable harm to Florida’s ALECs?

(b) If the answer to (a) is anything other than an unqualified no, please identify with specificity each and every aspect “substantial and irreparable harm” that you contend Florida’s ALECs have or will suffer as a result of the January Key Customer offering or the June Key Customer Offering .

(c) For each aspect of “substantial and irreparable harm” identified in (b), please describe in detail how you have suffered that aspect of “substantial and irreparable harm” as a result of the

January Key Customer offering.

(d) Do you contend that the June Key Customer offering has or will cause substantial and irreparable harm to Florida's ALECs?

(e) If the answer to (d) is anything other than an unqualified no, please identify with specificity each and every aspect "substantial and irreparable harm" that you contend Florida's ALECs have or will suffer as a result of the June Key Customer offering or the June Key Customer Offering .

(f) For each aspect of "substantial and irreparable harm" identified in (e), please describe in detail how you have suffered that aspect of "substantial and irreparable harm" as a result of the June Key Customer offering.

**Objection:**

Joint ALECs incorporate herein their objection to Interrogatory No. 2.

**Interrogatory No. 18:** (a) Do you offer telecommunications services to any business end users in Florida at rates, terms, and/or conditions that vary from the rates, terms, and/or conditions set forth in the tariffs you have filed with the Florida Public Service Commission?

(b) If your answer to (a) is anything other than an unqualified "no," please describe in detail the rates, terms, and conditions under which you provide service to business end users in Florida that vary in any way from the rates, terms, and conditions set forth in the tariffs you have filed with the Florida Public Service Commission.

(c) If your answer to (a) is anything other than an unqualified "no," please identify all contracts or other documents related to your provision of rates, terms, and conditions under which you provide service to business end users in Florida that vary in any way from the rates, terms, and

conditions set forth in the tariffs you have filed with the Florida Public Service Commission.

**Objection:**

Joint ALECs object to Interrogatory No. 18 on the grounds of relevance, that it is vague and ambiguous, unduly burdensome, and seeks discovery of commercially sensitive, proprietary and confidential information. Further, to the extent that information is available in Joint ALECs' filed Florida tariffs, BellSouth already has access to the requested information.

**Interrogatory No. 19:** Please identify all documents (including without limitation training materials and documents given or intended to be given to actual or prospective customers) that compare the rates or prices available for any of your telecommunications products and/or services to the rates or prices available for any telecommunications products and/or services offered by BellSouth, any other ILEC, any ALEC, or any other telecommunications service provider.

**Objection:**

Joint ALECs object as the request is vague and ambiguous, unduly burdensome and seeks discovery of commercially sensitive, proprietary and confidential information. Also, to the extent BellSouth seeks information relating to "any of your [Joint ALECs'] telecommunications products and/or services" that information is irrelevant to any issue to be determined by the Commission in this docket, and not reasonably calculated to lead to the discovery of relevant information.

**Interrogatory No. 20:** (a) Do you offer any telecommunications services to business customers under contract?

(b) If your answer to (a) is anything other than an unqualified "no," please describe all services that you provide under contract, identify the contract term lengths available, describe in detail any charges, liability, or penalty that the contract requires the end user to pay if the end user

terminates the contract prior to the expiration of its term.

**Objection:**

Joint ALECs object as the request is vague and ambiguous, unduly burdensome and seeks discovery of commercially sensitive, proprietary and confidential information. To the extent BellSouth seeks information relating to “any of your [Joint ALECs’s] telecommunications products services,” that information is irrelevant to any issue to be determined by the Commission in this docket, and not reasonably calculated to lead to the discovery of relevant information.

**Interrogatory No. 21:** Please identify any documents or other information in your possession regarding any offering by which you have made available (or are currently making available) rates, terms, conditions, discounts, rebates, checks, or other items only to persons and/or entities who were not your end user customers (either generally or with regard to any particular telecommunications service) as of the time of the offer.

**Objection:**

Joint ALECs object on the grounds that the request is vague and ambiguous, unduly burdensome and seeks discovery of commercially sensitive, proprietary and confidential information. To the extent BellSouth seeks information relating to “any offering you [Joint ALECs] has made available,” that information is irrelevant to any issue to be determined by the Commission in this docket, and not reasonably calculated to lead to the discovery of relevant information.

**Interrogatory No. 22:** Please identify any documents in your possession which discuss, address, or relate to the use of special contracts, contract service arrangements and/or special promotions by BellSouth, by any other ILEC, by you, by any ALEC, or by ALECs generally.

**Objection:**

Joint ALECs object to this request on the grounds that it is unduly burdensome, irrelevant, vague and ambiguous and seeks discovery of commercially sensitive proprietary and confidential information. To the extent BellSouth seeks documents that discuss, address, or relate to the use of special contracts, contract service arrangements and/or special promotions by any company other than BellSouth, those documents are proprietary, confidential and irrelevant to any issues in that the Commission is to determine in this docket, and not reasonably calculated to lead to the discovery of admissible evidence.

**Interrogatory No. 23:** Please identify all documents by which you market any telecommunications products and/or services in Florida (including without limitation: advertisements in newspapers, periodicals, and trade publications; copies of billboard advertisements; transcripts of radio or television advertisements; direct mailings, faxes, and e-mails; “leave-behind” materials; telemarketing scripts; web pages; marketing brochures; and comparable materials).

**Objection:**

Joint ALECs incorporate herein their objection to Interrogatory No. 20.

**Interrogatory No. 24:** Please identify a copy of all materials that you have used between June 2001 and the present to train any person(s) who is or may be selling your telecommunications services to end users in BellSouth’s operating territory in the state of Florida.

**Objection:**

Joint ALECs incorporate herein their objection to Interrogatory No. 20.

**Interrogatory No. 25:** Please describe the method(s) you are using to provide telecommunications services (e.g. resale, interconnection, unbundled network elements, facilities-based, etc.).

**Objection:**

Joint ALECs incorporate herein their objection to Interrogatory No. 20.

**Interrogatory No. 26:** Please provide the number of business customers and/or access lines you served in the state of Florida as of the end of each month from January 2001 to the present.

**Objection:**

Joint ALECs incorporate herein their objection to Interrogatory No. 20.

**Interrogatory No. 27:** For each wire center listed in Section A2.10.2.B of BellSouth's Florida General Subscriber Service Tariff, a copy of which is attached to these Interrogatories, please provide: the total number of business customers and/or business access lines you served as of the end of each month from January 2001 to the present; and (b) the number of business customers and/or business access lines you served as of the end of each month from January 2001 to the present under contract.

**Objection:**

Joint ALECs incorporate herein their objection to Interrogatory No. 20.

**Interrogatory No. 28:** Please identify any documents in your possession that discuss, address, or relate to: (a) your share of the Florida local telecommunications market (or any segment thereof); (b) the ALECs' share of the Florida local telecommunications market (or any segment



thereof); or (c) BellSouth's share of the Florida local telecommunications market (or any segment thereof).

**Objection:**

Joint ALECs incorporate herein their objection to Interrogatory No. 20.

**Interrogatory No. 29:** (a) In the past twelve months, have you sought to fund your telecommunications operations in the state of Florida by borrowing money (including without limitation the issuance of bonds) or by selling equity?

(b) If the answer to (a) is anything other than an unqualified "no," please identify all documents associated with any such borrowing of money or sale of equity in which you have described in any manner whatsoever the anticipated results of you operations in Florida.

**Objection:**

Joint ALECs incorporate herein their objection to Interrogatory No. 20.

**Interrogatory No. 30:** Please state the total number of persons (including employees, vendors, independent contractors, etc.) who attempt to sell your telecommunications products and/or services to business customers in the state of Florida.

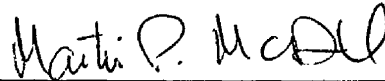
**Objection:**

Joint ALECs incorporate herein their objection to Interrogatory No. 20.

**CONCLUSION**

WHEREFORE, for the foregoing reasons, BellSouth's Motion to Compel should be denied in full.

Respectfully submitted, this 5th day of December, 2002.



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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing was furnished by U. S. Mail to the following this 5<sup>th</sup> day of December, 2002:

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