

LAW OFFICES
Messer, Caparello & Self **ORIGINAL**
A Professional Association

Post Office Box 1876
Tallahassee, Florida 32302-1876
Internet: www.lawfla.com

Reply to: P.O. Box 1876
Tallahassee, FL 32302-1876

January 13, 2003

RECEIVED - FPSC
03 JAN 13 PM 2:30
COMMISSION
CLERK

BY HAND DELIVERY

Ms. Blanca Bayó, Director
Division of Records and Reporting
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

RE: Docket No. 020507-TL - ITC^DeltaCom Communications, Inc.'s Supplemental Responses to BellSouth Telecommunications, Inc.'s First Set of Interrogatories

Dear Ms. Bayó:

ITC^DeltaCom Communications, Inc., pursuant to Section 364.183(1), Florida Statutes, hereby claims that certain information provided to BellSouth Telecommunications, Inc. in ITC^DeltaCom Communications, Inc.'s Supplemental Responses to BellSouth Telecommunications, Inc.'s First Set of Interrogatories, contains confidential and proprietary business information that should be held exempt from public disclosure. Pursuant to Rule 25-22.0006(5), Florida Administrative Code, in the attached envelope is one copy of ITC^DeltaCom Communications, Inc.'s Response with the confidential information highlighted. Two redacted copies are attached. Redacted copies have been provided to Staff.

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

Thank you for your assistance with this filing.

Sincerely yours,


Floyd R. Self

FRS/amb

Enclosures

cc: Nanette Edwards, Esq.
Parties of Record

RECEIVED & FILED

Mrs
FPSC - BUREAU OF RECORDS

DOCUMENT NUMBER 00000000
00382 JAN 13 06
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of the Florida
Competitive Carriers Association
Against BellSouth Telecommunications, Inc.
and Request for Expedited Relief

Docket No. 020507-TP

Served: January 10, 2003

**ITC^DeltaCom Communications, Inc.'s Supplemental Response to BellSouth
Telecommunications, Inc.'s Interrogatories
And Production of Document Requests**

INTERROGATORIES

7. If the answer to Interrogatory No. 6 is in the affirmative, please:
- ii. State the total number of customers to whom ITC^DeltaCom is providing
Broadband Service and/or DSL service in Florida, including stating the total
number of residential and business customers being provided such service;

ITC^DELTACOM'S SUPPLEMENTAL RESPONSE:

ITC^DeltaCom objects that providing the number of its customers is not relevant and
is a trade secret. Notwithstanding its objections, ITC^DeltaCom has the following
supplemental information part of which is confidential and which is being produced subject
to a protective agreement:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Response provided by: David Freytag

18. If the answer to Interrogatory No. 16 is in the negative, please describe with particularity all reasons, whether technical, financial, or otherwise, why ITC^DeltaCom has decided not to enter into an agreement or discussions with a Cable Modem service provider concerning a joint offering or package of services involving ITC^DeltaCom's voice service and the Cable Modem service provider's Broadband Service.

ITC^DELTA COM'S SUPPLEMENTAL RESPONSE:

ITC^DeltaCom objects to this interrogatory on the grounds that it is not relevant to any issue identified in this proceeding nor reasonably calculated to lead to the discovery of any admissible evidence. Notwithstanding its objections, ITC^DeltaCom has the following supplemental information part of which is confidential and which is being produced subject to a protective agreement:

ITC^DeltaCom has not made a decision to enter or not enter into an agreement or discussions with a Cable Modem provider. The reason ITC^DeltaCom has approached BellSouth several times regarding "line sharing" and not a Cable Modem Provider is because the majority of customers that have DSL are using BellSouth and for those customers that do have Internet through a Cable Modem Provider, ITC^DeltaCom can provide local service to those customers and those customers can still enjoy receiving Internet service from the Cable Modem Provider. ITC^DeltaCom's complaint is that BellSouth disconnects the DSL service altogether when the customer chooses ITC^DeltaCom for local service and ITC^DeltaCom uses UNE-P to provide

local service to that small business and/or residential customer. The Cable Modem Provider does not disconnect its Internet service to the customer simply because the customer chose ITC^DeltaCom as its local provider. ITC^DeltaCom does not run into the BellSouth “tying” arrangement for business customers with 8 lines or more because ITC^DeltaCom can offer a T-1 based service to those mid-size business customers.

In summary, ITC^DeltaCom wants “reverse” line sharing. BellSouth can use the high frequency portion of the loop at no charge (or a charge equivalent to whatever BellSouth assesses DSL providers), and ITC^DeltaCom will provide the local service to the residential or small business customer if the customer so chooses.

Response provided by: David Freytag

20. If the answer to Interrogatory No. 19 is in the affirmative, please:
- i. Identify the DSL service provider with whom ITC^DeltaCom has had such an agreement or discussions;
 - ii. State the date when such an agreement was executed or such discussions took place;
 - iii. Describe with particularity the nature of such an agreement or discussions, including applicable rates, terms, and conditions for (a) a joint offering or package of services involving ITC^DeltaCom’s voice service and the DSL service provider’s Broadband Service and/or (b) a wholesale offering or wholesale broadband package.

ITC^DELTA COM’S SUPPLEMENTAL RESPONSE:

ITC^DeltaCom objects that any discussions with Earthlink are not relevant to any issue identified in this proceeding nor is this request reasonably calculated to lead to the discovery of admissible evidence. ITC^DeltaCom further objects on the basis that the information sought by the interrogatory is privileged as a trade secret. Notwithstanding its objections, ITC^DeltaCom has the following supplemental information part of which is confidential and which is being produced subject to a protective agreement:

[REDACTED]

Response provided by: David James and David Freytag

iv. Identify all documents referring or relating to such an agreement or discussions.

ITC^DELTACOM'S SUPPLEMENTAL RESPONSE:

See response to iii above.

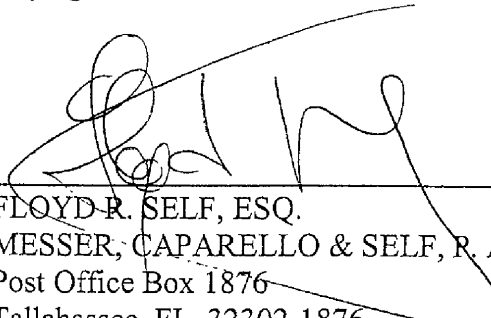
29. Do you contend that any state or federal laws, rules, or regulations are violated when BellSouth does not provide FastAccess service to carriers that offer DSL service (as contrasted to carriers that do NOT offer DSL service)? If the answer to the foregoing Interrogatory is in the affirmative, state all facts and identify all documents that support this contention.

ITC^DELTA COM'S SUPPLEMENTAL RESPONSE:

ITC^DeltaCom objects to this interrogatory on the basis that the information sought is irrelevant to any issue identified in this proceeding and not reasonably calculated to lead to the discovery of any admissible evidence in this proceeding. Notwithstanding this objection and without waiver, this proceeding is intended to address the anticompetitive behavior of BellSouth in leveraging its provision of FastAccess in conjunction with its provision of voice service to inhibit competition in the voice services market. This proceeding is not intended to address the provision of FastAccess to any other carrier regardless of whether such carrier provides its own DSL service. However, ITC^DeltaCom contends that BellSouth's practice of denying retail customer's access to DSL when that customer also chooses ITC^DeltaCom as their local provider is a violation of antitrust laws.

Response provided by David Freytag.

Respectfully submitted,



FLOYD R. SELF, ESQ.
MESSER, CAPARELLO & SELF, R. A.
Post Office Box 1876
Tallahassee, FL 32302-1876
(850) 222-0720

Nanette S. Edwards, Esq.
ITC^DeltaCom
4092 South Memorial Parkway
Huntsville, AL 35802-4343

Attorneys for ITC^DeltaCom Communications, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served on the following parties by Hand Delivery and/or U.S. Mail this 10th day of January, 2003.

Patricia Christensen, Esq.*
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Meredith E. Mays
c/o Nancy H. Sims
BellSouth Telecommunications, Inc.
150 South Monroe Street, Suite 400
Tallahassee, FL 32301

Vicki Kaufman, Esq.
Joseph A. McGlothlin, Esq.
Florida Competitive Carriers Association
117 S. Gadsden Street
Tallahassee, FL 32301

Michael Gross, Esq.
Florida Cable Telecommunications Association, Inc.
246 E. 6th Avenue, Suite 100
Tallahassee, FL 32303



Floyd R. Self