

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Implementation of requirements
Arising from Federal Communications
Commission Triennial UNE review: Local
Circuit Switching For Mass Market Customers

Docket No. 030851-TP

Filed: October 20, 2003

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**OBJECTIONS OF ICG TELECOM GROUP, INC. TO
BELLSOUTH'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (1-2)**

Pursuant to the *Order Establishing Procedure*, Order No. PSC-03-1054-PCO-TP, issued September 22, 2003 ("*Procedural Order*"), Rule 28-106.206 of the Florida Administrative Code, and Rules 1.280 and 1.340 of the Florida Rules of Civil Procedure, ICG Telecom Group, Inc. ("ICG") submits its preliminary objections to BellSouth Telecommunications, Inc.'s ("BellSouth") First Request for Production of Documents to ICG.

ICG files these objections to comply with the seven (7) day requirement set forth in the *Procedural Order*. These objections are preliminary in nature. ICG reserves the right to supplement these objections when it files its responses.

Further, at the time of the filing of these objections, the issues to be addressed in this proceeding have not yet been identified. Should additional grounds for objections develop as the Commission identifies the issues to be addressed in this proceeding, ICG reserves the right to supplement these objections.

PRELIMINARY GENERAL OBJECTIONS

ICG makes the following general objections to the Requests:

1. ICG objects to the "Definitions" section, the "General Instructions," and the individual request items of BellSouth's First Requests for Production of Documents to ICG to the extent that they are overly broad, unduly burdensome, and/or oppressive. ICG will attempt to

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identify specific requests to which this objection applies within the specific objections that follow.

2. ICG objects to the “Definitions,” the “General Instructions,” and the individual request items to the extent they are irrelevant and not likely to lead to the discovery of admissible evidence. By way of illustration and not limitation, ICG objects to requests that seek materials and documents that are inconsistent with or unrelated to the parameters and methodology of the impairment analysis prescribed by the FCC in its Triennial Review Order. ICG will attempt to identify individual requests to which this general objection is applicable within the specific objections that follow.

3. ICG objects to the “Definitions,” the “General Instructions,” and the request items to the extent they are vague, ambiguous, imprecise, or utilize terms that are subject to multiple interpretations but are not properly defined or explained for purposes of these Requests.

4. ICG objects to the “General Instructions” and the request items of BellSouth’s First Set of Requests for Production to ICG to the extent that they purport to impose discovery obligations on ICG that exceed the scope of discovery allowed by the applicable Florida Rules of Civil Procedure.

5. ICG objects to the “General Instructions” section and the individual request items of BellSouth’s First Requests for Production to ICG to the extent that the “instructions” purport to seek disclosure of “all” documents, materials or information in ICG’s possession. ICG’s responses will provide all nonprivileged and otherwise discoverable information obtained by ICG after a reasonable and diligent search conducted in connection with the Requests. Such search will include a review of only those files that are reasonably expected to contain the requested documents and/or information. To the extent that “instructions” or individual requests

require more, ICG objects on the grounds that compliance would be unduly burdensome, expensive, oppressive, or excessively time consuming, and unnecessary to accomplish BellSouth's legitimate discovery needs.

6. ICG objects to BellSouth's First Requests for Production to the extent that the requests seeks discovery of materials and/or information protected by attorney/client privilege, the work product doctrine, the accountant/client privilege, or any other applicable privilege.

7. ICG objects to BellSouth's First Set of Requests for Production to the extent that the requests would require disclosure of information that constitutes trade secrets and/or confidential and proprietary information that should be disclosed either not at all or only pursuant to the terms of a mutually acceptable confidentiality agreement and use of the Commission's rules and orders governing confidentiality


8. ICG objects to all requests which would require the production of materials and/or information which is already in BellSouth's possession or is in the public record before the Commission. To duplicate information that BellSouth already has or is readily available to BellSouth would be unduly burdensome and oppressive.

9. ICG objects to BellSouth's First Request for Production to the extent BellSouth seeks to impose an obligation on ICG to respond on behalf of subsidiaries and/or former officers, employees, agents, and directors on the grounds that such requests for production are overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules.

10. ICG will interpret each request as relating to Florida intrastate operations within BellSouth's service areas. To the extent any requests are not intended to relate to Florida intrastate operations within BellSouth's Florida service area, ICG objects to such requests as

overbroad, irrelevant, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

11. ICG objects to the use of the terms “qualifying service” and “nonqualifying service” on the grounds the terms are subject to differing interpretations.



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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing Objections of ICG Telecom Group, Inc. to BellSouth's First Set of Interrogatories has been provided by (*) hand delivery, (**) email and U.S. Mail this 20th day of October 2003, to the following:

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