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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Implementation of requirements arising
From Federal Communications Commission
Triennial Review: Location Specific-Review
For DS1, DS3, and Dark Fiber Loops and
Route-Specific Review for DS1, DS3, and
Dark Fiber Transport

Docket No. 030852-TP

Filed: November 6, 2003

**OBJECTIONS OF NETWORK TELEPHONE CORPORATION TO
BELLSOUTH'S SECOND SET OF INTERROGATORIES
AND
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

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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, Network Telephone Corporation ("Network Telephone") submits its preliminary objections to BellSouth Telecommunications, Inc.'s ("BellSouth") Second Set of Interrogatories to Network Telephone and BellSouth's First Request for Production of Documents to Network Telephone.

Network Telephone files these objections to comply with the seven (7) day requirement set forth in the *Procedural Order*. These objections are preliminary in nature. Should additional grounds for objection be discovered as Network Telephone prepares its responses to any item of discovery contained within the Second Set of Interrogatories or the First Request for Production of Documents, Network Telephone reserves the right to supplement these objections.

Further, at the time of the filing of these objections, the issues to be addressed in

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this proceeding have not yet been established. Should additional grounds for objections develop as the Commission identifies the issues to be addressed in this proceeding, Network Telephone reserves the right to supplement these objections.

PRELIMINARY OBJECTIONS

Network Telephone makes the following preliminary objections to the Second Set of Interrogatories and the First Request for Production of Documents. Network Telephone will incorporate the objections into the individual responses to the interrogatories and requests as appropriate.

1. Network Telephone objects to the “Definitions” section, the “General Instructions,” and the individual items of BellSouth’s Second Set of Interrogatories and First Requests for Documents to Network Telephone to the extent that they are overly broad, unduly burdensome, oppressive, and/or excessively time consuming.

2. Network Telephone objects to the “Definitions,” the “General Instructions,” and the individual interrogatories and requests to the extent they seek information that is irrelevant and are not reasonably calculated to lead to the discovery of admissible evidence. By way of illustration and not limitation, Network Telephone objects to interrogatories and requests that seek information that is unrelated to or inconsistent with the methodology and parameters of the analysis of impairment prescribed by the FCC in its Triennial Review Order.

3. Network Telephone objects to the “Definitions,” the “General Instructions,” and the individual interrogatories and requests for documents 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. Network Telephone objects to the “General Instructions” and the items of BellSouth’s Second Set of Interrogatories and First Requests for Documents to Network Telephone to the extent that they purport to impose discovery obligations on Network Telephone that exceed the scope of discovery allowed by the applicable Florida Rules of Civil Procedure.

5. Network Telephone objects to BellSouth’s Second Set of Interrogatories and First Requests for Documents to Network Telephone to the extent that the interrogatories and requests seek discovery of materials and/or information protected by the attorney/client privilege, the work product doctrine, the accountant/client privilege, or any other applicable privilege.

6. Network Telephone objects to BellSouth’s Second Set of Interrogatories and First Requests for Documents to the extent that the interrogatories and requests would require disclosure of information that constitutes trade secrets and/or confidential, proprietary business information, which either should not be disclosed at all or should be disclosed (provided the information is otherwise discoverable) only pursuant to the terms of a mutually acceptable confidentiality agreement and use of the Commission’s rules and procedures relating to confidential and proprietary information.

7. Network Telephone objects to all interrogatories and requests which would require Network Telephone to provide information which is already in BellSouth’s possession or is in the public record before the Commission. To require Network Telephone to duplicate information that BellSouth already has or is readily available to BellSouth would be unduly burdensome and oppressive.

8. Network Telephone objects to BellSouth’s Second Set of Interrogatories and First Requests for Documents to the extent BellSouth seeks to impose an obligation on Network Telephone to respond on behalf of affiliates 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.

9. Network Telephone will interpret each interrogatory and each request for documents as relating to intrastate Florida operations within BellSouth's service area. To the extent any interrogatories or requests for documents are not intended to relate to Florida intrastate operations within BellSouth's Florida service area, Network Telephone objects to such interrogatories as overbroad, unduly burdensome, irrelevant to the issues before the Commission, and not reasonably calculated to lead to the discovery of admissible evidence.

10. Network Telephone objects to any interrogatories or requests for documents that are not limited in time or are not limited to a time period that is relevant to the issues before the Commission and/or reasonably related to BellSouth's legitimate discovery needs.

11. Network Telephone objects to the use of the terms "qualifying service" and "nonqualifying service" on the grounds the terms are (with the exception of services specifically mentioned in the FCC's rule) ambiguous and subject to differing interpretations.

12. Network Telephone objects to requests for "any", "all", and "every", document as overbroad and unduly burdensome.

13. Interrogatory No. 15 states:

15. List all BellSouth wire centers in the Southeastern states where you have collocation, either virtual or physical. In Microsoft Excel format, list the 11-character wire center CLLI code and the CLLI code designating each arrangement you have within that wire center. For each wire center listed identify:

- a. The type of collocation (caged, cageless, shared, virtual, other (with a description) and identify the total amount of space currently occupied and reserved for future growth;
- b. The type of equipment and number of equivalent DS0 channels for all services in the collocation space (e.g. DLC, remote switches, multiplexers, transmission terminals, etc.).
- c. The transmission facilities and number of equivalent DS0 channels for all services used to connect the office to your switch or non-ILEC switching provider (e.g., BellSouth UNEs, BellSouth special access, self provision, third party provision).
- d. The amount of unused or excess space in each collocation space.
- e. The number of active and inactive DS1 cross connects.
- f. The number of active and inactive DS3 cross-connects.
- g. The number of active and inactive 2-fiber cross-connects.
- h. The number of active and inactive 4-fiber cross-connects.
- i. State whether you have deployed fiber "entrance" facilities that you own which connect to the collocation arrangements identified.
- j. State whether you have fiber "entrance" facilities that you have obtained from a person other than BellSouth which connect to the collocation arrangements identified.
- k. State whether you have fiber cross-connects which connect the identified arrangement(s) to other persons collocated at the same wire center. If yes, (i) identify all carriers to which your arrangements are connected within the wire center; and (ii) identify the capacity or type of connection.

Network Telephone objects to Interrogatory No. 15 on the grounds, that as applied it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Network Telephone objects to No. 15 on the grounds it is oppressive and unduly burdensome. Network Telephone objects on the grounds the information sought is proprietary and confidential business information.

14. Interrogatory No. 19 states:

19. Identify the points within all Southeastern states at which you connect your local network facilities to the networks of other carriers, including but not limited to interconnection with other CLECs, interexchange carriers, internet service providers at any point of presence ("POP"), network access point ("NAP"), collocation hotels, data centers, or similar facility. This interrogatory may be answered with network diagrams.

Network Telephone objects on the grounds that as applied to Network Telephone, it's irrelevant, not reasonably calculated to lead to discovery of admissible evidence, is unduly burdensome, and seeks proprietary and confidential business information.

15. Interrogatory No. 23 states:

23. Identify each shared or non-BellSouth location (e.g., collocation hotel) in the Southeastern states in which you are located. For each such location state:

- a. The type of collocation or sharing/leasing of space for placement of equipment (e.g., caged, cageless, shared, or virtual);
- b. The type of equipment and number of equivalent DS0 channels for all services in the collocation space (e.g., DLC, remote switches, multiplexers, transmission terminals, etc.).
- c. The transmission facilities and number of equivalent DS0 channels for all services used to connect the office to your switch or non-ILEC switching provider (e.g., BellSouth UNEs, BellSouth special access, self provision, third party provision).

Network Telephone objects to Interrogatory No. 23 on the grounds that, as applied to Network Telephone, it is irrelevant, not reasonably designed to lead to discovery of admissible evidence, and unduly burdensome. Network Telephone objects to disclosure of proprietary and confidential information.

16. Interrogatory No. 24 states:

24. For each arrangement identified in response to Interrogatory 23 and in response to Interrogatory 16, please list the types of services that are provided utilizing such an arrangement.

- a. List all types of service you offer to your end users from each collocation space describe or demand and the quantity of each service you provide and/or offer.
- b. For each service identified in (a), list the average monthly revenue associated with each type of service.

Network Telephone objects to Interrogatory No. 24 on the grounds that, as applied to Network Telephone, it is irrelevant, not reasonably designed to lead to

discovery of admissible evidence, and unduly burdensome. Network Telephone objects to disclosure of proprietary and confidential information.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Objections of Network Telephone Corporation to BellSouth Telecommunications, Inc.'s Second Set of Interrogatories and First Request For Production of Documents has been provided by (*) hand delivery, (**) email and U.S. Mail this 6th day of November 2003, to the following:

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