

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Implementation of Requirements)  
 Arising From Federal Communications ) Docket No.: 030851-TP  
 Commission Triennial UNE Review: )  
 Local Circuit Switching for Mass ) Filed: December 15, 2003  
 Market Customers )  
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**AT&T COMMUNICATIONS OF THE SOUTHERN STATES, LLC'S  
 OBJECTIONS TO BELL SOUTH TELECOMMUNICATIONS, INC.'S FOURTH  
 REQUEST FOR PRODUCTION OF DOCUMENTS (Nos. 29-31)**

AT&T Communications of the Southern States, LLC (hereinafter "AT&T"), pursuant to the *Order Establishing Procedure*, Order No. PSC-03-1054-PCO-TP, issued September 22, 2003, and *Second Order on Procedure*, Order No. PSC-03-1265-PCO-TP issued November 7, 2003 (hereinafter collectively "*Procedural Orders*"), by the Florida Public Service Commission (hereinafter "Commission"), Rule 28-106.206 of the Florida Administrative Code, and Rules 1.280 and 1.350 of the Florida Rules of Civil Procedure, objects generally to Bellsouth Telecommunications, Inc.'s (hereinafter "BellSouth") Fourth Request for Production of Documents to AT&T Communications of the Southern States, LLC.

**OVERVIEW**

AT&T files these objections for purposes of complying with the seven (7) day requirement set forth in the *Procedural Orders*. These objections are preliminary in nature. Should additional grounds for objection be discovered as AT&T prepares its responses to any discovery, or at any time prior to hearing, AT&T reserves the right to supplement, revise, and/or modify these objections.

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## **GENERAL OBJECTIONS**

AT&T makes the following general objections to the Request for Production of Documents which will be incorporated by reference into AT&T's specific responses when AT&T responds to the Request for Production of Documents.

### **1. Definitions**

A. AT&T objects to the "Definitions" section of BellSouth's Fourth Request for Production of Documents to AT&T to the extent that such terms are overly broad, unduly burdensome, irrelevant, oppressive and not reasonably calculated to lead to the discovery of admissible evidence pursuant to the *Procedural Orders*, Rule 28-106.206 of the Florida Administrative Code, and Rules 1.280 and 1.350 of the Florida Rules of Civil Procedure. Furthermore, AT&T objects to the "Definitions" section to the extent that it utilizes terms that are subject to multiple interpretations, but are not properly defined or explained for purposes of these Request for Production of Documents.

B. AT&T objects to the "Definitions" section of BellSouth's Fourth Request for Production of Documents to AT&T to the extent that the definitions operate to include the discovery of information protected by attorney/client privilege, the accountant/client privilege, the work product doctrine or any other applicable privilege.

C. AT&T objects to the "Definitions" section of BellSouth's Fourth Request for Production of Documents to AT&T to the extent that the definitions operate to include the discovery of information and/or materials containing the mental impressions, conclusions, opinions or legal theories of any attorney or other representative of AT&T concerning the subject of the proceeding and prepared and developed in anticipation of litigation pursuant to Rule 1.280(b)(3) of the Florida Rules of Civil Procedure without the requisite showing from BellSouth that it has substantial need of the requested information and materials in the preparation of the case and is unable without undue hardship to obtain the substantial equivalent of the materials by other means.

D. AT&T objects to the "Definitions" section of BellSouth's Fourth Request for Production of Documents to AT&T to the extent that the definitions operate to impose discovery obligations on AT&T inconsistent with, or beyond the scope of, what is permitted under the *Procedural Orders* and other applicable Florida law.

E. AT&T objects to the "Definitions" section of BellSouth's Fourth Request for Production of Documents to AT&T to the extent that the

definitions operate to seek discovery of matters other than those subject to the jurisdiction of the Commission pursuant to the Federal Communications Commission's (hereinafter "FCC") Triennial Review Order, Florida Administrative Code and Florida Statutes.

F. AT&T objects to the "Definitions" section of BellSouth's Fourth Request for Production of Documents to AT&T to the extent that the definitions operate to seek disclosure of information that is proprietary confidential information or a "trade secret" without the issuance of an appropriate Protective Order or Confidential Classification as outlined by the *Procedural Orders*, §364.183 of the Florida Statutes, §90.506 of the Florida Statutes and Rule 25-22.006.

G. AT&T objects to the terms "you," "your," "AT&T," and "person" to the extent that the definitions include natural persons or entities which are not parties to this proceeding, not subject to the jurisdiction of the Commission, and not subject to the applicable discovery rules. Subject to the foregoing, and without waiving any objection, general or specific, unless otherwise ordered, responses will be provided on behalf of AT&T Communications of the Southern States, LLC, which is a certificated carrier authorized to provide regulated communications services in Florida and which is a party to this proceeding.

## **2. Instructions**

A. AT&T objects to the "General Instructions" section of BellSouth's Fourth Request for Production of Documents to AT&T to the extent that the "instructions" operate to impose discovery obligations on AT&T inconsistent with, or beyond the scope of, what is permitted under the *Procedural Orders* and the applicable Florida Rules of Civil Procedure. Subject to the foregoing, and without waiving any objections, responses will be provided in accordance with the *Procedural Orders* and the applicable Florida Rules of Civil Procedure.

B. AT&T objects to the "General Instructions" section of BellSouth's Fourth Request for Production of Documents to AT&T to the extent that the "instructions" operate to seek disclosure of the mental impressions, conclusions, opinions, or legal theories of any attorney or other representative of AT&T concerning the subject of litigation without the requisite showing under Rule 1.280(b)(3) of the Florida Rules of Civil Procedure.

C. AT&T objects to the "General Instructions" section of BellSouth's Fourth Request for Production of Documents to AT&T to the extent that the "instructions" operate to seek disclosure of "all" information in AT&T's "possession, custody or control" and to the extent that said

“instruction” requires AT&T to provide information or materials beyond its present knowledge, recollection or possession. With respect thereto, AT&T has employees located in many different locations in Florida and other states. In the course of conducting business on a nationwide basis, AT&T creates numerous documents that are not subject to either the Commission or FCC record retention requirements. These documents are kept in numerous locations and frequently are moved from location to location as employees change jobs or as business objectives change. Therefore, it is impossible for AT&T to affirm that every responsive document in existence has been provided in response to those Requests for Production of Documents. Instead, where provided, AT&T’s responses will provide all information obtained by AT&T after a reasonable and diligent search conducted in connection with those Requests for Production of Documents. Such search will include only a review of those files that are reasonably expected to contain the requested information. To the extent that the instructions require more, AT&T objects on the grounds that compliance would be unduly burdensome, expensive, oppressive, or excessively time consuming to provide such responsive information.

### **3. General Objections to Request for Production of Documents**

A. AT&T objects to BellSouth’s Fourth Request for Production of Documents to AT&T to the extent that the Request for Production of Documents are overly broad, unduly burdensome, irrelevant, oppressive and not reasonably calculated to lead to the discovery of admissible evidence pursuant to the *Procedural Orders*, Rule 28-106.206 of the Florida Administrative Code, and Rules 1.280 and 1.350 of the Florida Rules of Civil Procedure.

B. AT&T objects to BellSouth’s Fourth Request for Production of Documents to AT&T to the extent that the Request for Production of Documents purport to seek discovery of information protected by attorney/client privilege, the accountant/client privilege, the work product doctrine or any other applicable privilege.

C. AT&T objects to BellSouth’s Fourth Request for Production of Documents to AT&T to the extent that the Request for Production of Documents purport to seek discovery of information and/or materials containing the mental impressions, conclusions, opinions or legal theories of any attorney or other representative of AT&T concerning the subject of the proceeding and prepared and developed in anticipation of litigation pursuant to Rule 1.280(b)(3) of the Florida Rules of Civil Procedure without the requisite showing from BellSouth that it has substantial need of the requested information and materials in the preparation of the case and in unable without undue hardship to obtain the substantial equivalent of the materials by other means.

D. AT&T objects to BellSouth's Fourth Request for Production of Documents to AT&T to the extent that the Request for Production of Documents purport to impose discovery obligations on AT&T inconsistent with, or beyond the scope of, what is permitted under the *Procedural Orders* and the applicable Florida Rules of Civil Procedure.

E. AT&T objects to BellSouth's Fourth Request for Production of Documents to AT&T to the extent that the Request for Production of Documents purport to seek discovery of matters other than those subject to the jurisdiction of the Commission pursuant to the FCC's Triennial Review Order, Florida Administrative Code and Florida Statutes.

F. AT&T objects to BellSouth's Fourth Request for Production of Document to AT&T to the extent that the Request for Production of Documents purport to seek disclosure of information that is proprietary confidential information or a "trade secret" without the issuance of an appropriate Protective Order or Confidential Classification as outlined by the *Procedural Orders*, §364.183 of the Florida Statutes, §90-506 of the Florida Statutes, and Rule 25-22.006.

G. AT&T objects to all Requests for Production of Documents which require the disclosure of information which already is in the public domain or otherwise on record with the Commission or the FCC.

H. AT&T objects to BellSouth's Fourth Request for Production of Documents to AT&T to the extent that the Request for Production of Documents seek information and discovery of facts known and opinions held by experts acquired and/or developed in anticipation of litigation or for hearing and outside the scope of discoverable information pursuant to Rule 1.280(4) of the Florida Rules of Civil Procedure.

I. Pursuant to the *Procedural Orders*, the Triennial Review Order, Rule 28-106.206 of the Florida Administrative Code, and Rules 1.280 and 1.350 of the Florida Rules of Civil Procedure, to the extent that BellSouth's Requests for Production of Documents request specific financial, business or proprietary information regarding AT&T's economic business model, AT&T objects to providing or producing any such information on the grounds that those Request for Production of Documents presume that the market entry analysis is contingent upon AT&T's economic business model instead of the hypothetical business model contemplated by the Triennial Review Order.

Respectfully submitted, this the 15<sup>th</sup> day of December, 2003.

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