

ORIGINAL

LAW OFFICES
Messer, Caparello & Self
A Professional Association

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

RECEIVED FPSC
03 DEC 23 PM 2:53
COMMISSION
CLERK

December 23, 2003

BY HAND DELIVERY

Ms. Blanca Bayó, Director
Commission Clerk and Administrative Services
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Docket No. 030852-TP

Dear Ms. Bayó:

Enclosed for filing on behalf of ITC^DeltaCom Communications, Inc. are an original and fifteen copies of ITC's Preliminary Objections to BellSouth's Second Request for Production of Documents in the above referenced docket.

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

Thank you for your assistance with this filing.

RECEIVED & FILED

wh

FPSC-BUREAU OF RECORDS

Sincerely yours,



Floyd R. Self

FRS

FRS/amb
Enclosures

AUS
CAF
CMP
COM
CTR
ECR
GCL
OPC
MMS
SEC
OTH

DOCUMENT NUMBER DATE
13406 DEC 23 3
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Implementation of Requirements)
Arising From Federal Communications)
Commission Triennial UNE Review:) Docket No.: 030852-TP
For DS1, DS3, and Dark Fiber Loops) Filed: December 23, 2003
And Route-Specific Review for DS1, DS3,)
And Dark Fiber Transport)
_____)

**ITC's PRELIMINARY OBJECTIONS TO BELLSOUTH'S
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS (Nos. 6-7)**

ITC^DeltaCom Communications, Inc., d/b/a ITC^DeltaCom and Business Telecom Inc. (hereinafter "ITC"), pursuant to the *Order Establishing Procedure*, Order No. PSC-03-1054-PCO-TP, issued September 22, 2003 (hereinafter "*Procedural Order*") by the Florida Public Service Commission ("Commission"), Rule 28-106.206 of the Florida Administrative Code, and Rules 1.280 and 1.340 of the Florida Rules of Civil Procedure, hereby generally and specifically objects to BellSouth Telecommunications, Inc.'s ("BellSouth") Second Request for Production of Documents to ITC, served on December 17, 2003. The Objections stated herein are preliminary in nature and are made at this time for the purpose of complying with the seven-day requirement set forth in the *Procedural Order*. ITC notes that the BellSouth separately served ITC^DeltaCom Communications, Inc. and Business Telecom Inc., but ITC shall object and later respond to these separate discovery requests on a combined basis unless otherwise indicated.

A. General Objections

ITC makes the following General Objections to BellSouth's Second Request for Production of Documents, including the applicable definitions and general instructions therein ("BellSouth discovery"), which as appropriate will be incorporated into each relevant response when ITC's responses are served on BellSouth.

1. ITC objects to the BellSouth discovery to the extent that such discovery seeks to impose an obligation on ITC to respond on behalf of subsidiaries, affiliates, or other persons that are not parties to this case on the grounds that such discovery is overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules. ITC further objects to any and all BellSouth discovery that seeks to obtain information from ITC for ITC subsidiaries, affiliates, or other related ITC entities that are not certificated by the Commission.

2. ITC has interpreted the BellSouth discovery to apply to ITC's regulated intrastate operations in Florida and will limit its responses accordingly. To the extent that any BellSouth discovery is intended to apply to matters that take place outside the state of Florida and which are not related to Florida intrastate operations subject to the jurisdiction of the Commission, ITC objects to such request as irrelevant, overly broad, unduly burdensome, and oppressive.

3. ITC objects to the BellSouth discovery to the extent that such discovery calls for information which is exempt from discovery by virtue of the attorney-client privilege, work product privilege, or other applicable privilege.

4. ITC objects to the BellSouth discovery insofar as such discovery is vague, ambiguous, overly broad, imprecise, or utilizes terms that are subject to multiple interpretations but are not properly defined or explained for purposes of these requests. Any responses provided by ITC in response to the BellSouth discovery will be provided subject to, and without waiver of, the foregoing objection.

5. ITC objects to the BellSouth discovery insofar as such discovery is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this action.

6. ITC objects to the BellSouth discovery insofar as it seeks information or documents, or seek to impose obligations on ITC which exceed the requirements of the Florida Rules of Civil Procedure or Florida law.

7. ITC objects to providing information to the extent that such information is already in the public record before the Florida Public Service Commission or which is already in the possession, custody, or control of BellSouth.

8. ITC objects to the BellSouth discovery to the extent that such discovery is overly broad, unduly burdensome, expensive, oppressive, or excessively time consuming as written.

9. ITC objects to each and every request to the extent that the information requested constitutes "trade secrets" which are privileged pursuant to Section 90.506, Florida Statutes. To the extent that BellSouth's requests seek proprietary confidential business information which is not the subject of the "trade secrets" privilege, ITC will make such information available to the BellSouth pursuant to the terms of the Commission's Protective Order and the requirements of section 364.183 and Florida Administrative Code Rule 25-24.006, subject to any other general or specific objections contained herein.

10. ITC is a large corporation with employees located in many different locations in Florida and in other states. In the course of its business, ITC creates countless documents that are not subject to Florida Public Service Commission or FCC retention of records requirements. These documents are kept in numerous locations and are frequently moved from site to site as employees change jobs or as the business is reorganized. Therefore, it is possible that not every document has been identified in response to these requests. ITC will conduct a reasonable and diligent search of those files that are reasonably expected to contain the requested information.

To the extent that the BellSouth discovery purports to require more, ITC objects on the grounds that compliance would impose an undue burden or expense.

11. ITC objects to the BellSouth discovery that seeks to obtain “all,” “each,” or “every” document, item, customer, or other such piece of information to the extent that such discovery is overly broad and unduly burdensome. Any answers that ITC may provide in response to the BellSouth discovery will be provided subject to, and without waiver or, this objection.

12. ITC objects to the BellSouth discovery to the extent such discovery seeks to have ITC create documents not in existence at the time of the request.

13. ITC objects to the BellSouth discovery to the extent that such discovery is not limited to any stated period of time or a stated period of time that is longer than is relevant for purposes of the issues in this docket, as such discovery is overly broad and unduly burdensome.

14. In light of the short period of time ITC has been afforded to respond to the BellSouth discovery, the development of ITC’s positions and potentially responsive information to the BellSouth requests is necessarily ongoing and continuing. Accordingly, these are preliminary objections to comply with the *Procedural Order*, and ITC reserves the right to supplement, revise, or modify its objections at the time that it serves its actual responses to the BellSouth discovery. However, ITC does not assume an affirmative obligation to supplement its answers on an ongoing basis.

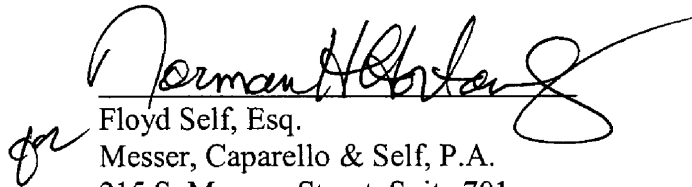
B. Specific Objections

ITC makes the following Specific Objections to BellSouth’s Second Request for Production of Documents, including the applicable definitions and general instructions expressed

therein (“BellSouth discovery”), which as appropriate will be incorporated into each relevant response when ITC’s responses are served on BellSouth.

15. ITC objects to each and every interrogatory or request for production that seeks information regarding ITC’s projections regarding future services, revenues, marketing strategies, equipment deployments, or other such future business plans as such requests are trade secrets and, for purposes of this proceeding, would be highly speculative and irrelevant to the issues to be decided in this docket.

Respectfully submitted this 23rd day of December, 2003.

A handwritten signature in black ink, appearing to read "Norman H. Self", written over a horizontal line. To the left of the signature is a small, stylized handwritten mark that looks like "FS".

Floyd Self, Esq.
Messer, Caparello & Self, P.A.
215 S. Monroe Street, Suite 701
Tallahassee, FL 32302
(850) 222-0720

Nanette Edwards, Esq.
ITC^DeltaCom Communications, Inc.
4092 S. Memorial Parkway
Huntsville, AL 35802

Attorneys for ITC^DeltaCom Communications, Inc. and
Business Telecom 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 (*), electronic mail, and/or U. S. Mail this 23rd day of December, 2003.

Adam Teitzman, Esq.*
Office of General Counsel, Room 370
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Jason Rojas, Esq.*
Office of General Counsel, Room 370
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Nancy B. White*
c/o Nancy H. Sims
BellSouth Telecommunications, Inc.
150 South Monroe Street, Suite 400
Tallahassee, FL 32301

Susan S. Masterton, Esq.
Sprint-Florida, Incorporated
Sprint Communications Company Limited
Partnership
P.O. Box 2214
Tallahassee, FL 32316-2214

Richard A. Chapkis, Esq.
Verizon Florida Inc.
P.O. Box 110, FLTC0007
Tampa, FL 33601-0110

Nanette Edwards
ITC^DeltaCom
4092 S. Memorial Parkway
Huntsville, AL 35802

Mr. James White
ALLTEL
601 Riverside Avenue
Jacksonville FL 32204-2987

Ms. Laurie A. Maffett
Frontier Telephone Group
180 South Clinton Avenue
Rochester NY 14646-0700

Mr. R. Mark Ellmer
GT Com
P. O. Box 220
Port St. Joe FL 32457-0220

Mr. Robert M. Post, Jr.
ITS Telecommunications Systems, Inc.
P. O. Box 277
Indiantown FL 34956-0277

Ms. Harriet Eudy
NEFCOM
11791 110th Street
Live Oak FL 32060-6703

Ms. Lynn B. Hall
Smart City Telecom
P. O. Box 22555
Lake Buena Vista FL 32830-2555

Michael A. Gross
Vice President, Regulatory Affairs
& Regulatory Counsel
Florida Cable Telecommunications Assoc., Inc.
246 E. 6th Avenue
Tallahassee, FL 32301

Tracy W. Hatch, Esq.
AT&T Communications of the Southern States, LLC
101 N. Monroe Street, Suite 701
Tallahassee, FL 32301

Lisa Sapper
AT&T
1200 Peachtree Street, NE, Suite 8100
Atlanta, GA 30309

Donna McNulty, Esq.
MCI WorldCom Communications, Inc.
1203 Governors Square Blvd, Suite 201
Tallahassee, FL 32301-2960

De O'Roark, Esq.
MCI WorldCom Communications, Inc.
6 Concourse Parkway, Suite 600
Atlanta, GA 30328

Vicki Kaufman, Esq.
Joe McGlothlin, Esq.
McWhirter, Reeves, McGlothlin,
Davidson, Rief & Bakas, P.A.
117 S. Gadsden Street
Tallahassee, FL. 32301

Marva Brown Johnson, Esq.
KMC Telecom III, LLC
1755 North Brown Road
Lawrenceville, GA 30034-8119

James C. Falvey, Esq.
Senior Vice President, Regulatory Affairs
Xspedius Communications, LLC
7125 Columbia Gateway Drive, Suite 200
Columbia, MD 21046

Norman H. Horton, Jr.
Messer, Caparello & Self, P.A.
P.O. Box 1876
Tallahassee, FL 32302-1876

Mr. Jake E. Jennings
NewSouth Communications Corp.
Two N. Main Center
Greenville, SC 29601

Jon C. Moyle, Jr., Esq.
Moyle, Flanigan, Katz, Raymond & Sheehan, P.A.
118 North Gadsden Street
Tallahassee, FL 32301

Charles E. Watkins
Covad Communications Company
1230 Peachtree Street, NE, 19th Floor
Atlanta, GA 30309

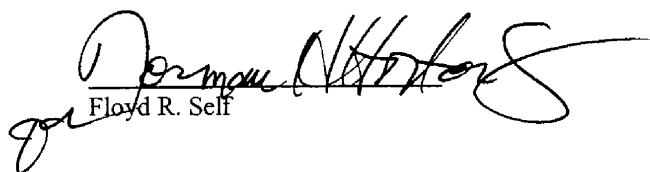
Matt Feil
Scott A. Kassman
FDN Communications
390 North Orange Avenue, Suite 2000
Orlando, FL 32801

Jorge Cruz-Bustillo, Esq.
Supra Telecommunications and
Information Systems, Inc.
2620 S.W. 27th Avenue
Miami, Florida 33133

Mr. Jonathan Audu
Supra Telecommunications and
Information Systems, Inc.
1311 Executive Center Drive, Suite 220
Tallahassee, FL 32301

Mr. Bo Russell
Vice President
Regulatory and Legal Affairs
Nuvox Communications, Inc.
301 North Main Street
Greenville, SC 29601

Thomas M. Koutsky
Vice president, Law and Public Policy
Z-Tel Communications, Inc.
1200 19th Street, N.W., Suite 500
Washington, DC 20036


Floyd R. Self