

ORIGINAL



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December 24, 2003

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COMMISSION
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BY OVERNIGHT MAIL

Ms. Blanca Bayó, Director
The 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 are an original and fifteen copies of AT&T's Initial Objections to BellSouth's Second Request for Production of Documents in the above referenced docket.

Please acknowledge receipt of this letter by stamping the extra copy of this letter "filed," and return to me at the time of filing.

Thank you for your assistance.

Sincerely yours,

Tracy Hatch/las
Tracy W. Hatch

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TWH/las
Enclosure
cc: Parties of Record

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

**CERTIFICATE OF SERVICE
DOCKET NO. 030852-TP**

I HEREBY CERTIFY that a copy of the foregoing has been furnished via electronic mail or as indicated this 23rd day of December 2003, to the following parties of record:

<p>Adam Teitzman Office of the General Counsel Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399-0850 Email: ateitzma@psc.state.fl.us</p>	<p>BellSouth Telecommunications, Inc. * Nancy B. White c/o Ms. Nancy H. Sims 150 South Monroe Street, Suite 400 Tallahassee, FL 32301-1556 Phone: (850) 224-7798 Fax: 222-8640 Email: nancy.sims@bellsouth.com</p>
<p>Florida Cable Telecom. Assoc., Inc. Michael A. Gross 246 E. 6th Avenue, Suite 100 Tallahassee, FL 32303 Phone: 850-681-1990 Fax: 681-9676 Email: mgross@fcta.com</p>	<p><u>MCI WorldCom Communications, Inc.</u> * Ms. Donna C. McNulty 1203 Governors Square Blvd., Suite 201 Tallahassee, FL 32301-2960 Phone: (850) 219-1008 Fax: 219-1018 Email: donna.mculty@wcom.com</p>
<p>Sprint – Florida* Susan S. Masterton 1313 Blairstone Road MC: FLTLHO0107 Tallahassee, FL 32301 Phone: (850) 847-0244 Fax: 878-0777 Email: susan.masterton@mail.sprint.com</p>	<p>KMC Telecom III, LLC * Marva Brown Johnson, Esq. 1755 North Brown Road Lawrenceville, GA 30043-8119 Phone: (678) 985-6261 Fax: (678) 985-6213 Email: marva.johnson@kmctelecom.com</p>
<p>Covad Communications Company* Charles E. Watkins 1230 Peachtree Street, NE 19th Floor Atlanta, GA 30309 Phone: (404) 942-3492 Email: g Watkins@covad.com</p>	<p>ITC^DeltaCom * Nanette Edwards 4092 South Memorial Parkway Huntsville, AL 35802 Phone: (256) 382-3856</p>
<p>McWhirter Reeves McGlothlin Davidson* Kaufman & Arnold, PA Vicki Gordon Kaufman 117 South Gadsden Street Tallahassee, FL 32301 Phone: (850) 222-2525 Email: vkaufman@mac-law.com</p>	<p>Verizon Florida Inc. * Mr. Richard Chapkis 201 N. Franklin Street, MCFLTC0007 Tampa, FL 33601 Phone: (813) 483-2606 Fax: (813) 204-8870 Email: richard.chapkis@verizon.com</p>
<p>Allegiance Telecom of Florida, Inc. Charles V. Gerkin, Jr. 9201 North Central Expressway Dallas, TX 75231 Phone: (469) 259-4051 Fax: 770-234-5965 Email: charles.gerkin@algx.com</p>	<p>Allegiance Telecom, Inc. Terry Larkin 700 East Betterfield Road Washington, DC 60148 Phone: 630-522-6453 Email: terry.larkin@algx.com</p>
<p>FDN Communications</p>	<p>Florida Competitive Carriers Assoc. C/O McWhirter Law Firm</p>

<p>Matthew Feil/Scott Kassman 390 North Orange Avenue, Suite 2000 Orlando, FL 32801-1640 Phone: (407) 835-0460 Fax: (407) 835-0309 Email: mfeil@mail.fdn.com/skassman@mail.fdn.com</p>	<p>Joseph McGlothlin/Vicki Kaufman 117 S. Gadsden Street Tallahassee, FL 32301 Phone: (850) 222-2525 Fax: (850) 222-5606 email: jmcglothlin@mac-law.com/vkaufman@mac-law.com</p>
<p>MCI WorldCom Communications, Inc.(GA) * De O'Roark, Esq. Six Concourse Parkway, Suite 600 Atlanta, GA 30328 Email: de.oroark@wcom.com</p>	<p>Messer Law Firm* Floyd Self/Norman Horton P. O. Box 1876 Tallahassee, FL 32302-1876 Phone: (850) 222-0720 Fax: (850) 224-4359</p>
<p>Moyle, Flanigan, Katz, Raymond & Sheehan, P.A. Jon C. Moyle, Jr. The Perkins House 118 North Gadsden Street Tallahassee, FL 32301 Phone: (850) 681-3828 Fax: 681-8788 Email: jmoylejr@moylelaw.com</p>	<p>NewSouth Communications Corp. * Jake E. Jennings Two North Main Center Greenville, SC 29601-2719 Phone: (864) 672-5877 Fax: (864) 672-5313 Email: jejennings@newsouth.com</p>
<p>Xspedius Communications Ms. Rabinai E. Carson 5555 Winghaven Blvd., Suite 300 O'Fallon, MO 63366-3868 Phone: (301) 361-4220 Fax: (301) 361-4277 Email: rabinai.carson@xspedius.com</p>	<p>BellSouth Telecommunications, Inc.* Douglas Lackey 675 W. Peachtree Street, Suite 4300 Atlanta, GA 30375</p>
<p>Supra Telecommunications and Info. Systems Jorge Cruz-Bustillo 2620 S.W. 27th Avenue Miami, FL 33133 Phone: (305) 476-4252 Fax: (305) 443-1078 Email: Jorge.cruz-bustillo@stis.com</p>	<p>Supra Telecommunications and Info. Systems Jonathan Audu 1311 Executive Center Drive, Suite 220 Tallahassee, FL 32301-5027 Phone: (850) 402-0510 Fax: (850) 402-0522 Jonathan.audu@stis.com</p>
<p>Nuvox Communications, Inc. Bo Russell 301 North Main Street Greenville, SC 29601</p>	<p>Miller Isar, Inc. Andrew O. Isar 7901 Skansie Avenue, Ste. 240 Gig Harbor, WA 98335</p>

Casey & Gentz, L.L.P. Bill Magness 919 Congress Avenue, Suite 1060 Austin, TX 78701 Phone: 512-225-0019 Fax: 512-480-9200	Sprint (KS) Kenneth A. Schiffman 6450 Sprint Parkway Mailstop: KSOPHN0212-2A303 Overland Park, KS 66251-6100 Phone: 913-315-9783
Sprint (NC) H. Edward Phillips, III 14111 Capital Blvd. Mailstop: NCWKFR0313-3161 Wake Forest, NC 27587-5900 Phone: 919-554-7870	

Tracy Hatch

Tracy W. Hatch, Esq.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

**AT&T COMMUNICATIONS OF THE SOUTHERN STATES, LLC'S
OBJECTIONS TO BELL SOUTH TELECOMMUNICATIONS, INC.'S SECOND
REQUESTS FOR PRODUCTION OF DOCUMENTS (Nos. 6-7)**

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") Second 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.

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 Second 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 Second 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 Second 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 Second 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 Second 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 Second 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 Second 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 Second 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 Second 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 Second 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 Second 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 Second 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 Second 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 Second 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 Second 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 Second 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 24th day of December, 2003.

Tracy Hatch

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