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February 13, 2004

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**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

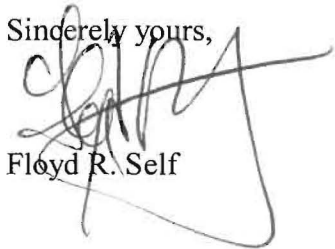
Dear Ms. Bayó:

Enclosed for filing on behalf of ITC^DeltaCom Communications, Inc. are an original and fifteen copies of ITC's Preliminary Objections to Staff's Second Set of Interrogatories (Nos. 15-34) and Second Request for Production of Documents (Nos. 8-9) 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.

Sincerely yours,



Floyd R. Self

FRS/amb  
Enclosures  
cc: Parties of Record

- AUS \_\_\_\_\_
- CAF \_\_\_\_\_
- CMP \_\_\_\_\_
- COM \_\_\_\_\_
- CTR \_\_\_\_\_
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Implementation of requirements arising from Federal Communications Commission's Triennial UNE 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

February 13, 2004

**ITC^DELTA COM'S PRELIMINARY OBJECTIONS TO STAFF'S SECOND SET OF INTERROGATORIES (Nos. 15-34) AND SECOND SET OF PRODUCTION OF DOCUMENTS (Nos. 8-9)**

ITC^DeltaCom (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 Public Service Commission Staff (hereinafter "Staff") Second Set of Interrogatories and Second Request for Production of Documents to ITC, served on February 6, 2004. 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*.

**A. General Objections**

ITC makes the following General Objections to Staff's Second Set of Interrogatories and Second Request for Production of Documents, including the applicable definitions and general instructions contained therein.

1. ITC objects to the Staff 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 Staff 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 Staff discovery to apply to ITC's regulated intrastate operations in Florida and will limit its responses accordingly. To the extent that any Staff 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 Staff 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 Staff 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 Staff discovery will be provided subject to, and without waiver of, the foregoing objection.

5. ITC objects to the Staff 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 Staff 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 Staff.

8. ITC objects to the Staff 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 Staff'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 Staff 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 Staff discovery purports to require more, ITC objects on the grounds that compliance would impose an undue burden or expense.

11. ITC objects to the Staff 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 Staff discovery will be provided subject to, and without waiver or, this objection.

12. ITC objects to the Staff 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 Staff 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 Staff discovery, the development of ITC’s positions and potentially responsive information to the Staff 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 and responses at the time that it serves its actual responses to the Staff discovery. However, ITC does not assume an affirmative obligation to supplement its answers on an ongoing basis.

### **B. Specific Objection**

ITC makes the following Specific Objection to Staff’s Second Set of Interrogatories and Second Request for Production of Documents, including the applicable definitions and general instructions contained therein.


15. ITC objects to each and every admission, 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.

16. ITC objects to each and every admission, interrogatory, or request for production, that seeks information regarding ITC's operations in IEC service areas other than the BellSouth IEC service area within the state of Florida as such information is irrelevant to BellSouth's case in this docket and such discovery is overly broad and unduly burdensome.

17. ITC objects to each and every admission, interrogatory, or request for production, that seeks to obtain information regarding "former officers, employees, agents, directors, and all other persons acting or purporting to act on behalf of ITC" as such information is not within ITC's control, it would be unduly burdensome to attempt to obtain, and it is likely irrelevant.

Respectfully submitted this 13<sup>th</sup> day of February, 2004.



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## 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 13<sup>th</sup> day of February, 2004.

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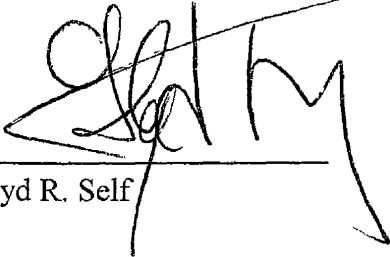
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