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March 19, 2004

**VIA HAND DELIVERY**

Blanca S. Bayo, Director  
Division of Records and Reporting  
Betty Easley Conference Center  
4075 Esplanade Way  
Tallahassee, Florida 32399-0870

RECEIVED FPSC  
MAR 19 PM 4:03  
COMMISSION  
CLERK

Re: Docket No.:030851-TP

Dear Ms. Bayo:

On behalf of Network Telephone Corporation, enclosed for filing and distribution are the original and 15 copies of the following:

- ▶ Network Telephone Corporation's Request for Specified Confidential Classification and Motion for Protective Order Regarding Confidential Testimony and Confidential Hearing Exhibit Nos. 13 and 23.

Please acknowledge receipt of the above on the extra copy and return the stamped copy to me.

Thank you for your assistance.

AUS	_____
CAF	_____
CMP	_____
COM	<u>ctrpr</u>
CTR	_____
ECR	_____
GCL	_____
OPC	_____
MMS	_____
SEC	_____
OTH	<u>conf records</u>

Sincerely,

Joseph A. McGlothlin

RECEIVED & FILED

RUN.

FPSC-BUREAU OF RECORDS

This confidentiality request was filed by or for a "telco" for DN 03711-04. No ruling is required unless the material is subject to a request per 119.07, FS, or is admitted in the record per Rule 25-22.006(8)(b), FAC.

DOCUMENT NUMBER - DATE  
03710 MAR 19 04  
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Implementation of requirements arising  
From Federal Communications Commission  
Triennial UNE review: Local Circuit Switching  
For Mass Market Customers

Docket No. 030851-TP

Filed: March 19, 2004

**NETWORK TELEPHONE CORPORATION'S REQUEST FOR SPECIFIED  
CONFIDENTIAL CLASSIFICATION AND MOTION FOR PROTECTIVE ORDER  
REGARDING CONFIDENTIAL TESTIMONY AND  
CONFIDENTIAL HEARING EXHIBIT NOS. 13 AND 23**

Network Telephone Corporation ("Network Telephone") pursuant to Rule 25-22.006, Florida Administrative Code, files this Request for Specified Confidential Classification and Motion for Protective Order Regarding Confidential Testimony and Confidential Hearing Exhibit Nos. 13 and 23.

1. On February 24 - 27, 2004, the Commission conducted its hearing in this docket. During the hearing, confidential information of Network Telephone's was entered into the record, including a portion of the rebuttal testimony of FCCA witness Joseph P. Gillan and confidential hearing Exhibit Nos. 13 and 23.

2. The rebuttal testimony of Joseph P. Gillan, (TR. 2516), contains confidential information regarding the number and type of loops provisioned to Network Telephone's Pensacola switch. Network Telephone considers this information to be confidential proprietary business information. Disclosure of this information could severely harm Network Telephone's competitive interests in the marketplace. The information has not been made public. A more specific description of this information is contained in Attachment A.

3. Exhibit No. 13<sup>1</sup> contains a copy of Network Telephone's Objections and Answer

<sup>1</sup> Two "Miscellaneous Confidential Stipulations" were entered into the record at the hearing as Exhibit Nos. 12 and 13. Network Telephone believes, but it is not clear from the record, that the information it requests confidential classification for is included in Exhibit No. 13. However, if Network Telephone is mistaken, and the documents are included as part of Exhibit No. 12, then Network Telephone intends that its request apply to Exhibit No. 12.

DOCUMENT NUMBER-DATE

03710 MAR 19 04

FPSC-COMMISSION CLERK

to BellSouth's First Set of Interrogatories, Item No. 41. The document contains information regarding the average number of DSOs at which it would choose to serve a particular customer with a DS1 or larger transmission system. Network Telephone considers this information to be confidential proprietary business information. Disclosure of this information could severely harm Network Telephone's competitive interests in the marketplace. The information has not been made public. A more specific description of this information is contained in Attachment A.

4. Exhibit No. 23, the deposition of Joseph P. Gillan and exhibits, includes the Affidavit of Margaret Ring of Network Telephone. Mrs. Ring's affidavit contains confidential information regarding the number and type of loops provisioned to Network Telephone's Pensacola switch (this is the same confidential information that appears in Mr. Gillan's testimony (Tr. 2516)). Network Telephone considers this information to be confidential proprietary business information. Disclosure of this information could severely harm Network Telephone's competitive interests in the marketplace. The information has not been made public. A more specific description of this information is contained in Attachment A.

5. Section 364.183, Florida Statutes, provides an exemption from the disclosure requirements of section 119.07, Florida Statutes, when disclosure of confidential business information would "impair the competitive business of the provider of the information." Disclosure of Network Telephone's confidential information would harm its business operations by placing details of its operations and capabilities in the public domain. Accordingly, the information should be exempt from the public disclosure requirements of section 119.07, Florida Statutes.

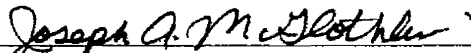
6. Network Telephone treats the information for which confidential classification is sought as private and confidential.

7. Appended hereto as Attachment B are two copies of the pertinent portions of each document with the confidential information redacted.

8. Appended hereto as Attachment C is a sealed envelope containing one copy of the pertinent portions of each document including the material which is confidential and proprietary.

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**WHEREFORE**, based on the foregoing, Network Telephone moves the Commission to enter an order declaring the information described above to be confidential, proprietary business information that is not subject to public disclosure.

  
Joseph A. McGlothlin  
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Attorneys for Network Telephone Corporation

**ATTACHMENT A  
DOCKET NO. 030851-TP  
NETWORK TELEPHONE CORPORATION'S REQUEST FOR SPECIFIED  
CONFIDENTIAL CLASSIFICATION AND MOTION FOR PROTECTIVE ORDER  
REGARDING CONFIDENTIAL TESTIMONY AND  
CONFIDENTIAL HEARING EXHIBIT NOS. 13 AND 23**

**EXPLANATION OF PROPRIETARY INFORMATION  
CONTAINED AT TR. 2516 AND EXHIBIT NOS. 13 AND 23.**

1. The document contains **CONFIDENTIAL** Network Telephone information regarding the number and type of loops provisioned to Network Telephone's Pensacola switch. This information is related to Network Telephone's ongoing business affairs and can be used by Network Telephone's competitors to harm its competitive interests. Section 364.183, Florida Statutes, allows for an exemption from the disclosure requirements of section 119.07, Florida Statutes, when disclosure would "impair the competitive business of the provider of the information." Therefore, the information should be shielded from disclosure pursuant to section 119.07, Florida Statutes and section 24(a), Art. 1 of the State Constitution.

2. The document contains **CONFIDENTIAL** Network Telephone information regarding the average number of DSOs at which it would choose to serve a particular customer with a DS1 or larger transmission system. This information is related to Network Telephone's ongoing business affairs and can be used by Network Telephone's competitors to harm its competitive interests. Section 364.183, Florida Statutes, allows for an exemption from the disclosure requirements of section 119.07, Florida Statutes, when disclosure would "impair the competitive business of the provider of the information." Therefore, the information should be shielded from disclosure pursuant to section 119.07, Florida Statutes and section 24(a), Art. 1 of the State Constitution.

**Hearing Transcript, Volume 18**

<u>Page Number</u>	<u>Line(s)</u>	<u>Reason</u>
TR2516	6, 7 and 10	1

**Confidential Portion of Exhibit No. 13**

<u>Page Number</u>	<u>Line(s)</u>	<u>Reason</u>
Page 2 of Network Telephone's Response to BellSouth Item No. 41	1-9	2

**Confidential Portion of Exhibit No. 23**

<u>Page Number</u>	<u>Line(s)</u>	<u>Reason</u>
Page 3 of 22 of Gillan Deposition Exhibit No. 2	1-3	1

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**ATTACHMENT B**

1 loop, each provisioned to the Network Telephone switch in Pensacola.  
2 With any of these configurations, Network Telephone is required to install  
3 equipment at the customer's location and to make a connection at its  
4 collocated DSLAM in order to provide the customer with voice service.

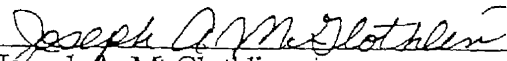
5  
6 \* Approximately [REDACTED] of the loops provisioned to Network Telephone's  
7 Pensacola switch are DS1 loops and the remaining [REDACTED] are ADSL-  
8 capable or UDC loops. These loops provide customers with Network  
9 Telephone's bundled voice and data services. While there are  
10 approximately [REDACTED] presently provisioned  
11 to Network Telephone's switch to provide small business customers with  
12 voice services, these analog loops would have been provisioned for a  
13 legacy customer. There would be no instance today where Network  
14 Telephone would provision such a loop to provide a small business  
15 customer with analog POTS service.

16  
17 Consequently, Network Telephone clearly cannot be counted as a self-provider of  
18 mass market services.  
19

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]

Objection of Counsel

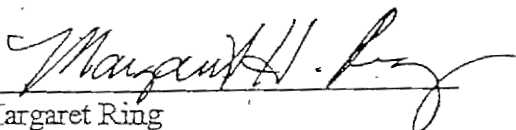
Answer furnished by Wendell Nelson

  
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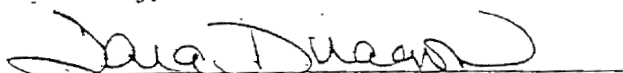
Attorneys for Network Telephone Corporation



8. ~~The only residential customers that Network Telephone serves in Florida today are "legacy" customers or employees being served either via resale or UNE-P and not via Network Telephone's Pensacola switch.~~
9. The basic method by which Network Telephone serves the small and medium business customer's bundled voice and data needs in Florida are via an unbundled DS1 loop, a 2 wire ADSL-compatible loop, or a UDC loop, each provisioned to the Network Telephone switch in Pensacola. With any of these configurations, Network Telephone is required to install equipment at the customer's location and to make a connection at its collocated DSLAM in order to provide the customer with voice service.
9. When VoDSL service is provided over an ADSL-compatible loop, the provisioning is limited by even more stringent distance and loop quality issues than are encountered in providing retail DSL services. The loop must be ADSL capable, less than 18,000 feet from the DSLAM, and reasonably clean of bridged tap. Network Telephone currently tries to limit its ADSL loop length to 13,500 feet from the DSLAM to retain service quality.
10. As a result of these limitations, Network Telephone does not provide its facility-based service outside of a limited footprint. Occasionally, Network Telephone will have a request from a business customer for service at a location outside of the Network Telephone facilities-based footprint. In that instance, Network Telephone will serve that business customer via UNE-P.
11. Approximately [REDACTED] of Network Telephone's Pensacola switch are DS1 loops and the remaining [REDACTED] are ADSL-capable or UDC loops. These loops provide customers with the Network Telephone's bundled voice and data services. While there are approximately [REDACTED] ADSL-capable loops presently provisioned to Network Telephone's switch to provide small business customers with voice services, these analog loops would have been provisioned for a legacy customer. There would be no instance today where Network Telephone would provision such a loop to provide a small business customer with analog POTS service.

  
Margaret Ring

Sworn to and subscribed before me, this 9<sup>th</sup> day of  
January, 2004.

  
Notary Public  
My commission expires: 8/28/07



Docket No. G30851-TP  
Gillan Deposition Exhibit No. 2  
CONFIDENTIAL  
Page 3 of 22

CONFIDENTIAL

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Network Telephone Corporation's Request for Specified Confidential Classification and Motion for Protective Order Regarding Confidential Testimony and Confidential Hearing Exhibit Nos. 13 and 23 has been provided by (\*) hand delivery, (\*\*) email and U.S. Mail this 19th day of March 2004 to the following:

(\*)(\*\*)Jeremy Susac, Staff Counsel  
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