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August 4, 2004

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. 030137-TP

Dear Ms. Bayó:

Enclosed for filing on behalf of ITC^DeltaCom Communications, Inc. d/b/a ITC^DeltaCom and BellSouth Telecommunications, Inc. are an original and fifteen copies of the Joint Motion of BellSouth and ITC to Permit Supplemental Briefs 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

DOCUMENT NUMBER-DATE

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for arbitration of unresolved issues in negotiation of interconnection agreement with BellSouth Telecommunications, Inc. by ITC^DeltaCom Communications, Inc. d/b/a ITC^DeltaCom.

Docket No. 030137-TP
Dated: August 4, 2004

**JOINT MOTION OF BELLSOUTH AND ITC
TO PERMIT SUPPLEMENTAL BRIEFS**

BellSouth Telecommunications, Inc. ("BellSouth") and ITC^DeltaCom Communications, Inc., d/b/a ITC^DeltaCom (hereinafter "ITC") (hereinafter, collectively, "Joint Movants"), pursuant to Rule 28-106.204, Fla. Admin. Code, hereby move the Florida Public Service Commission (hereinafter "Commission") for an Order allowing the parties to this proceeding to submit supplemental briefs to address important and highly relevant events that have occurred since the conclusion of the final hearing by the submission of supplemental briefs not to exceed 40 pages in length, with such briefs to be filed no later than August 20, 2004, and as grounds therefore, the Joint Movants state:

1. This proceeding was first initiated by ITC's petition for arbitration filed on February 7, 2003. Subsequent to the initiation of these proceedings, the parties have worked to comply with the requirements of the Commission's Orders for this case, and have, accordingly, conducted discovery, participated in the final hearings on September 3-5, 2003, and submitted post-hearing briefs on October 17, 2003. In addition, the parties have, in good faith, continued to negotiate to resolve outstanding issues, and since the submission of post hearing briefs the

parties have in fact resolved some outstanding issues, with notifications of such resolutions being filed with the Commission as appropriate.

2. It is important to note that at the time of the final hearings in this matter in early September 2003, the Federal Communications Commission (“FCC”) had on August 21, 2003 just issued its Report and Order in its triennial review proceedings. *Report and Order and Order on Remand and Further Notice of Proposed Rulemaking*, FCC 03-36, CC Docket Nos. 01-338, 96-98, and 98-147 (the “Triennial Review Order” or “TRO”). Because of the short time between the issuance of the TRO and the arbitration proceedings in this docket, the parties were not able to fully address the impact of the TRO on the issues in the instant arbitration. While the parties did have some opportunity to address the TRO in the post hearing briefs submitted in October, the record probably may have been developed differently had the TRO been released earlier in the arbitration process.

3. Subsequent to the proceedings in this docket, on March 2, 2004, the United States District Court for the District of Columbia issued its decision in *United States Telecom Ass’n v. FCC*, 359 F.3d 554 (D.C. Cir. 2004) (and consolidated cases) (hereinafter *USTA II*). This decision by the Court, for which the FCC has not sought review, invalidated parts of the TRO and has led the FCC to initiate interim rules and to undertake a new rulemaking proceeding to remedy the Court’s concerns.

4. While BellSouth and ITC have continued to resolve some issues, the full impact of the remaining effective portions of the TRO, the *USTA II* decision, the new interim rules, and the ongoing FCC rulemaking on those still outstanding issues in this docket has yet to be explored. As a matter of judicial economy, given the complexity of these matters, it is in the best

interests of the Commission, Commission Staff, and the parties to fully understand the effects of these various matters on this docket before a final decision is made. The best means of presenting such information to the Commission at this time would be in the form of supplemental post hearing briefs to address only these very limited, critical, but specific impacts.

5. Counsel for ITC has discussed this motion with counsel for BellSouth, and is authorized to represent that BellSouth joins in making this request to the Commission, and that both ITC and BellSouth will be submitting supplemental briefs as requested herein.

WHEREFORE, ITC^DeltaCom Communications, Inc., d/b/a ITC^DeltaCom and BellSouth Telecommunications, Inc. respectfully request that the Commission permit the parties to submit supplemental briefs on August 20, 2004 that address the TRO, USTA II, the FCC's interim UNE rules, and the FCC's ongoing rulemaking proceeding.

Dated this 4th day of August, 2004.

Respectfully submitted,

ITC^DELTACOM COMMUNICATIONS, INC.
d/b/a ITC^DELTACOM

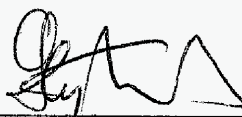


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BELLSOUTH TELECOMMUNICATIONS, INC.

 for (by permission)

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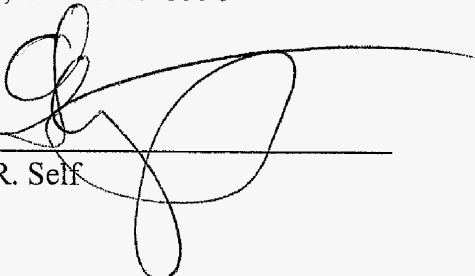
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served upon the following parties by Hand Delivery (*), and/or U. S. Mail this 4th day of August, 2004.

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