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February 13, 1998

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HAND DELIVER

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

In re: Docket No. 970808-TL

Dear Ms. Bayo:

Enclosed please find the original and 15 copies of GTC, Inc.'s Response to BellSouth Motion to Compel Answers to Interrogatories and Request for Production of Documents by St. Joseph Telephone and Telegraph Company in the above captioned docket. Copies have been hand delivered to parties of record.

Sincerely,



David B. Erwin

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____ DBE/kdr
- _____ Enclosures
- EAG _____ cc: Bill Thomas
- LEG _____ John Vaughan
- LIN _____
- OPC _____
- RCH _____
- SEC _____
- WAS _____
- OTH _____

DOCUMENT NUMBER-DATE

02207 FEB 13 88

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of BellSouth Telecommunications,)
Inc., for removal of St. Joseph Telephone and)
Telegraph Company's interLATA access subsidy)
_____)

Docket No.: 970808-TL

Filed: February 13, 1998

**GTC'S RESPONSE TO BELLSOUTH MOTION TO COMPEL ANSWERS TO
INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS
BY ST. JOSEPH TELEPHONE AND TELEGRAPH COMPANY**

GTC, Inc., pursuant to Rule 25-22.034, F.A.C., files this Response to BellSouth Telecommunications, Inc.'s Motion to Compel Answers to Interrogatories and Request for Production of Documents, and states as follows:

1. In its Motion to Compel Answers to Interrogatories, BellSouth has admitted it violated the Commission's Order establishing Procedure by filing an excessive number of interrogatories. In order to cure the problem, BellSouth has indicated that GTC can either answer the first 100 interrogatories of the original first set or all of the 69 interrogatories of the Revised set. This means that if GTC chooses to answer the first 100 of the original first set of interrogatories, GTC would have to answer 51 interrogatories which are not included in the revised set. In other words, GTC would have to answer numbers 2, 3, 4, 10, 11, 13, 14, 15, 18, 20 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 35, 37, 40, 47, 53, 60, 64, 67, 68, 69, 70, 72, 73, 75, 76, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 95, 98, 99, and 100, which BellSouth would not have answers to, if GTC answers the Revised set. If GTC chooses to answer the revised set of interrogatories, GTC would have to answer 19 interrogatories which are not included in the first 100 interrogatories of the original set, i.e., GTC would have to answer the following interrogatories of the original first set of interrogatories: 101, 104, 107, 108, 109, 110, 115, 120, 122, 125, 126, 127, 128, 129, 136, 137, 138, 141, and 142. In other words, BellSouth has phrased its discovery in the alternative:

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

AFA
Cmu-1
Leg-1
Mat-5
Sec-1

provide either set of information. This raises the inference that BellSouth is somewhat indifferent as to whether it receives any particular item of information it has requested and is prepared to proceed without it. GTC questions the necessity of spending time and money to respond to discovery requests propounded in the alternative.

Apparently, BellSouth is content to do without some information, without even knowing which information it will not receive. GTC submits that BellSouth's point is to make GTC do a lot of work. This supports GTC's previous allegation that the interrogatories are for the purpose of harassing, burdening and annoying GTC.

2. GTC submits that the alternative given to GTC by BellSouth to answer the first 100 interrogatories of the original set violates the discovery rules set forth in Order No. PSC-97-1584-PCO-TL. The Revised Set of 69 BellSouth interrogatories also violates the discovery rules set forth in Order No. PSC-97-1584-PCO-TL. Almost every interrogatory contains one or more subparts, and GTC believes that when the subparts are considered, there could be as many as 209 interrogatories (including subparts) in the Revised Set of 69 Interrogatories and many more in the alternative of answering the first 100 interrogatories of the original set. Only the following interrogatories of the Revised Set appear not to have subparts: 20, 21, 22, 34, 36, 40, 41, and 64. In contrast, Interrogatory 17 of the Revised Set has 14 subparts, and Interrogatory 28 has 10 subparts.

3. Regardless of whether GTC answers the first 100 interrogatories of the original set or the 69 interrogatories of the Revised Set (or some lesser number after resolution of the subpart issue), BellSouth is almost exclusively seeking information that would be useful in trying to calculate the level of earnings of GTC on a traditional rate base, rate of return basis. GTC has

maintained at every point in this proceeding, and will continue to maintain, that such an inquiry is not proper in this docket, at least as long as GTC's rates remain frozen. Sections 364.052(2) and 364.051(1)(b) and (c), F. S., specifically exempt a small LEC that has elected price regulation from rate of return regulation by the Commission. GTC has elected price regulation, and consequently its rates are frozen. Anything BellSouth might discover from the interrogatories propounded could not be the basis for regulatory action by the Commission in this proceeding. In fact, in BellSouth's Response and Objections to Staffs' First Request for Production of Documents in Docket No. 970281-TL, dated October 7, 1997, BellSouth made the following argument:

2. BellSouth has interpreted Staffs' requests to apply to BellSouth's regulated intrastate operations in Florida and will limit its Response accordingly. To the extent that any request is intended to apply to matters other than Florida intrastate operations subject to the jurisdiction of the Commission, BellSouth objects to such request to produce as irrelevant, overly broad, unduly burdensome and oppressive. (Emphasis supplied by GTC.)

Since the Commission no longer has rate base, rate of return jurisdiction over GTC, BellSouth is requesting information through discovery that BellSouth itself has argued is improper, since it applies to matters other than Florida intrastate operations subject to the jurisdiction of the Commission. In the Revised Set of 69 Interrogatories the following interrogatory numbers are designed to elicit information that would permit calculation of a level of earnings under a rate base, rate of return environment, which the Commission no longer has jurisdiction over with regard to GTC, pursuant to Section 364,052(2) and 364.051(1)(b) and (c), F.S.: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 47, 48, 49, 50, 51, 52, 53, 54,

55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, and 68. Only number 21 and possibly number 69 are arguably not intended to help establish a level of earnings under a rate base, rate of return environment.

4. GTC objected to interrogatories that would require GTC to respond on behalf of affiliates or other persons or entities not parties to this case. In the Revised Set of 69 Interrogatories, there are 27 interrogatories that pertain to or request information about affiliates. They are interrogatories numbers 4, 5, 6, 7, 9, 11, 12, 13, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 34, 35, 36, 37, 42, 46 and 49. BellSouth seeks to compel such answers in its Motion to Compel. Consider, however, the following argument that BellSouth interposed when asked by the PSC staff to provide affiliate information in a request for Production of Documents in Docket No. 970281-TL. BellSouth's Response and Objections to Staffs' First Request for Production of Documents, dated October 7, 1997, states as follows:

1. BellSouth objects to the requests to the extent that such requests seek to impose an obligation on BellSouth to respond on behalf of subsidiaries, affiliates, or other persons that are not parties to this case on the grounds that such requests are overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules.

GTC does not believe that BellSouth should be allowed to argue inconsistent and diametrically opposed viewpoints, depending on whose ox is being gored.

5. GTC reiterates each argument set forth in paragraphs 1 through 4, above, to the extent that it pertains to the BellSouth Request for Production of Documents. It is not clear which numbered requests relate to the Revised Set of 69 Interrogatories, so GTC can not be more specific.

Respectfully submitted,



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CERTIFICATE OF SERVICE
DOCKET NO. 970808-TL

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by U.S. Mail or by hand delivery this 13th day of February, 1998 to the following:

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