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ORIGINAL

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October 31, 1997

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

Re: Docket No. ~~970109-T1~~

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of Citizen's Response and Opposition to KTNT's Motion to Dismiss.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

- ACK
- AFA 1
- APP
- CAF
- CMU William
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- LIT 5 CJB:bsr
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- WFO

Sincerely,

Charles J. Beck
Charles J. Beck
Deputy Public Counsel

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FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

11243 OCT 31 97

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application to Provide)	
Interexchange Telecommunications)	Docket 970109-T1
Service by KTNT Communications,)	
Inc., d/b/a I Don't Care and d/b/a)	Filed: October 31, 1997
It Doesn't Matter)	
_____)	

**CITIZEN'S RESPONSE AND OPPOSITION TO
KTNT'S MOTION TO DISMISS**

The Citizens of Florida ("Citizens"), by and through Jack Shreve, Public Counsel, file this response and opposition to the Motion to Dismiss filed by KTNT Communications, Inc., d/b/a IDC Telecommunications ("KTNT") on October 28, 1997. In support, the Citizens submit the following:

1. On September 9, 1997, the Florida Public Service Commission issued Order No. PSC-97-1060-FOF-TL. This proposed agency action granted KTNT an unqualified certificate of authority to operate in the state of Florida.
2. Section 364.335(2), Florida Statutes (1995) states that if the Commission grants a certificate, any person who would be substantially affected by the requested certification may, within 21 days after the granting of such certificate, file a written objection requesting a proceeding pursuant to Section 120.57, Florida Statutes. This statute further gives the Commission the right to institute a proceeding under Section

120.57, Florida Statutes on its own motion to determine whether the grant of such certificate is in the public interest.

3. On September 15, 1997, the Citizens filed a petition for a Section 120.57(1) hearing and protest of the Commission's proposed agency action. This protest listed six specific issues, one of which was whether it is in the public interest to allow KTNT to obtain a certificate from the Commission. The protest also suggested that even if the Commission should, over the Citizens' objection, find that it is the public interest to allow KTNT to operate in Florida, the Commission should nevertheless modify KTNT's certificate to prohibit the company from using a fictitious name in the state.

4. KTNT's motion to dismiss takes the position that it is entitled, as a matter of law, to obtain an unqualified certificate to operate in Florida without having to provide evidence, in a proceeding held pursuant to the Administrative Procedures Act, to prove that its certificate is in the public interest. Its position is plainly contrary to law.

5. First, KTNT claims there is no current dispute of material issue of fact, policy or law before the Commission. Six specific disputed issues of fact, law, and policy are contained in the Citizen's protest. These six issues are as follows:

(a) What are KTNT's business plans for the state of Florida?

- (b) Does KTNT's business plan include the use of deceptive and unfair trade practices?
- (c) Is KTNT's business plan anti-competitive?
- (d) Does KTNT have sufficient technical, financial, and managerial capabilities?
- (e) Is it in the public interest to allow KTNT to obtain a certificate from the Commission?
- (f) If it is in the public interest to allow KTNT to obtain a certificate from the Commission, should the certificate be modified to prohibit the company from using fictitious names in Florida?

6. Second, KTNT disputes the claim that its management is unfit. KTNT's motion does nothing more than argue its position on disputed facts; it does not provide a basis to dismiss a request for hearing.

7. Third, KTNT disputes the facts concerning its anti-competitive behavior. Like its prior claim, KTNT merely argues the facts that are in dispute. This does not form a legal basis for dismissing a request for hearing.

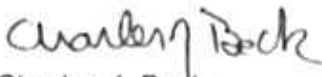
8. Finally, KTNT claims that holding a hearing would violate its right to due process. The Citizens are nonplussed by this claim. Holding a hearing will provide KTNT due process to show whether it should be granted a certificate to operate in

Florida.

9. For these reasons, the Commission should deny KTNT's Motion to
Dismiss.

Respectfully submitted,

JACK SHREVE
Public Counsel


Charles J. Beck
Deputy Public Counsel

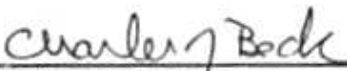
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Attorney for the Citizens
of the State of Florida

**DOCKET NO. 970109-TI
CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S.

Mail or hand-delivery to the following parties on this 31st day of October, 1997.



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