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February 9, 2004

Ms. Blanca S. Bayo  
Director, Division of the Commission  
Clerk and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

via Overnight Mail

Re: Docket No. 030851-TP Implementation of Requirements Arising from FCC  
Triennial UNE Review: Local Circuit Switching for Mass Market Customers

Dear Ms. Bayo:

Enclosed please find an original and seven (7) copies of FDN Communications  
Objections to Staff's Third Set of Interrogatories (Nos. 12-18).

If you have any questions regarding the enclosed, please call me at 407-835-0460.

Sincerely,

Matthew Feil  
FDN Communications  
General Counsel

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CMP \_\_\_\_\_  
COM \_\_\_\_\_  
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FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Implementation of requirements arising	)	
from Federal Communications Commission	)	Docket No. 030852-TP
Triennial UNE review: Location Specific-Review	)	
For DS1, DS3, and Dark Fiber Loops and	)	
Route-Specific Review for DS1, DS3, and Dark	)	
Fiber Transport	)	
_____	)	

**FDN COMMUNICATION'S OBJECTIONS TO  
STAFF'S THIRD SET OF INTERROGATORIES (NOS. 12 – 18)**

Florida Digital Network, Inc., d/b/a FDN Communications ("FDN"), pursuant to Rule 28-106.206, Florida Administrative Code and Rules 1.340 and 1.280, Florida Rules of Civil Procedure, hereby submits the following Objections to the Commission Staff's Third Set of Interrogatories (Nos. 12 – 18) served electronically on February 2, 2004.

The objections stated herein are preliminary in nature and are made at this time to comply with the 7-calendar day requirement set forth in Order No. PSC-03-1054-PCO-TP issued on September 22, 2003, as amended, by the Florida Public Service Commission ("Commission"). Should additional grounds for objection be discovered as FDN prepares its answers to the above-referenced discovery requests, FDN reserves the right to supplement, revise, or modify its objections at the time it serves its responses.

**GENERAL OBJECTIONS**

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

2. FDN objects to each discovery request to the extent that it is intended to apply to matters other than those directly at issue in this proceeding. FDN objects to each such request as being irrelevant, overly broad, unduly burdensome, and oppressive.

3. FDN objects to each discovery request to the extent that it requests information that is exempt from discovery by virtue of the attorney-client privilege, work product privilege, or other applicable privilege.

4. FDN objects to each discovery request to the extent that it is vague, ambiguous, overly broad, imprecise, or to the extent that it utilizes terms that are subject to multiple interpretations but are not properly defined or explained for purposes of these requests. Answers, if any, provided by FDN in response these requests will be provided subject to, and without waiver of, the foregoing objection.

5. FDN objects to each discovery request to the extent that it is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this action. FDN will attempt to note below and/or in its responses each instance where this objection applies.

6. FDN objects to providing information to the extent that such information is already in the public record before the Commission or in the possession of the party propounding the discovery.

7. FDN objects to each discovery request to the extent that it seeks to impose obligations on FDN that exceed the requirements of the Florida Rules of Civil Procedure or Florida Law.

8. FDN objects to each discovery request to the extent that responding to it would be unduly burdensome, expensive, oppressive, or excessively time consuming.

9. FDN objects to each discovery request to the extent that it is not limited to any stated period of time and, therefore is overly broad and unduly burdensome.

10. FDN is a small corporation with employees located in many different locations in Florida. In the course of its business, FDN creates documents that are not subject to Commission or FCC retention of records requirements. These documents may be kept in different locations and may be moved from site to site as employees change jobs or as the business is reorganized. Therefore, it is possible that not every document will be identified in response to these requests. To the extent a request is not otherwise objectionable, FDN will conduct a search of the files that are reasonably expected to contain the requested information. To the extent that the requests purport to require more, FDN objects on the grounds that compliance would impose an undue burden or expense.

11. In certain circumstances, FDN may determine upon investigation and analysis that information responsive to certain discovery requests to which objections are not otherwise asserted are confidential and proprietary and should not be produced at all or should be produced only under an appropriate confidentiality agreement and protective order. By agreeing to provide such information in response to such a discovery request, FDN is not waiving its right to insist upon appropriate protection of confidentiality by means of a confidentiality agreement and protective order. FDN hereby asserts its right to require such protection of any and all documents that may qualify for protection under

the Florida Rules of Civil Procedure and other applicable statutes, rules and legal requirements.

12. FDN objects to any discovery requests to the extent any definitions or instructions purport to expand FDN's obligations under applicable law. FDN will comply with applicable law.

13. FDN objects to the discovery requests to the extent they purport to require FDN to conduct any analysis or create information not prepared by FDN or its consultants in preparation for this case. FDN will only comply with its obligations under applicable law.

14. FDN objects to the discovery requests to the extent the requests require information for operations outside the State of Florida.

15. For each specific objection FDN may pose to the discovery here or hereafter, FDN incorporates all of the foregoing general objections.

#### **SPECIFIC OBJECTIONS**

16. FDN specifically objects to Interrogatories No. 12, 13, 14, and 16 subparts (g) and (h) in that whatever capacity or "spare capacity" a trigger company may have is irrelevant to this proceeding.

Respectfully submitted, this 9<sup>th</sup> day of February 2004

A handwritten signature in cursive script that reads "Matthew Feil". The signature is written in black ink and is positioned above a horizontal line.

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**CERTIFICATE OF SERVICE**

**Docket 030851-TP**

I hereby certify that a copy of the foregoing was sent by e-mail and regular mail to the persons listed below, other than those marked with an (\*) who have been sent a copy via overnight mail, this 9<sup>th</sup> day of February, 2004.

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A handwritten signature in black ink that reads "Matthew Feil". The signature is fluid and cursive, with the first name "Matthew" being larger and more prominent than the last name "Feil".

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