

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for) DOCKET NO. 910506-TL
Amendment of Rule 25-4.073,)
F.A.C., regarding answer) ORDER NO. PSC-92-0413-PCO-TL
time, by Southern Bell)
Telephone and Telegraph) ISSUED: 05/27/92
Company.)
_____)

ORDER GRANTING CONFIDENTIALITY REQUESTED
BY SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY

BY THE COMMISSION:

Southern Bell Telephone and Telegraph Company ("SBT") filed a Request for Specified Confidential Classification and Motion for Permanent Protective Order, on February 20, 1992, pertaining to information provided to the Office of Public Counsel pursuant to a Request for Production of Documents in the above referenced rulemaking proceeding. This material is intended to be and is considered by SBT to be proprietary and has not been publicly disclosed.

Florida law provides, in Section 119.07, Florida Statutes, the process by which records kept by government agencies are made public. Paragraph 119.07(3)(a) provides exceptions for public records which are presently provided by law to be confidential. In the instant matter the exceptions are provided in Section 364.183, Florida Statutes.

Subsection 364.183(1), Florida Statutes, provides that "proprietary confidential business information" shall be kept confidential and shall be exempt from s. 119.07(1). Subsection 364.183(3) provides a definition which reads:

The term "proprietary confidential business information" means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public.

DOCUMENT NUMBER-DATE

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FILE RECORDS / REPORTS

Subsection 364.183(3) also lists categories of things which would be included in the term "proprietary confidential business information". Included among that list are trade secrets, information relating to competitive interests, and information concerning bids or other contractual data.

SBT claims that the document it is seeking to protect, entitled the System Administrator's Guide AERO (trademark), Copyright 1988 (the "Manual"), published by Electronic Tale-Communication, Inc. ("Electronic"), falls into several of the categories which Subsection 364.183(3) lists as included in the term proprietary confidential business information. According to SBT certain pages of the Manual contain information which is a trade secret, the disclosure of this information would harm the competitive interests of Electronic, and the disclosure of this information may make it more difficult for Southern Bell to contract for products or services which require Southern Bell to maintain proprietary operating information because it could not guarantee that proprietary operating information would be kept confidential.

We find that the information in the Manual which SBT claims is proprietary falls within the definition of "proprietary confidential business information" provided in Subsection 364.183(3), Florida Statutes. The information is controlled by SBT, it is intended to be and is treated by SBT as private in that the disclosure of the information would cause harm to the company's business operations, and has not been disclosed by SBT.

Through its pleading, SBT asks for a Permanent Protective Order. We find that the duration of this order should be governed by Rule 25-22.006, F.A.C., and, therefore shall be for a period not exceeding eighteen (18) months. All information protected through this order shall be returned to SBT when it is no longer necessary for the commission to conduct its business in this proceeding. If the information is not returned to SBT before the end of the period specified in this order, the Commission will consider extending the period up eighteen (18) months, or for a longer period if the Commission finds, for good cause, that such longer period is necessary to protect the business operations of SBT.


It is, therefore,

ORDERED by the Florida Public Service Commission that the proprietary confidential business information in Docket No. 910506-TL contained on pages 1-3, 3-2, and 3-12 of the System Administrator's Guide AERO (trademark), shall be kept confidential and shall be exempt from Section 119.07, Florida Statutes, in accordance with

Section 364.183, Florida Statutes. It is further

ORDERED that the proprietary confidential business information shall be afforded confidential treatment until November 1, 1993.

By ORDER of Commissioner Betty Easley, as Prehearing Officer, this 27th day of May, 1992.



BETTY EASLEY, Prehearing Officer
and Commissioner

WEW

(S E A L)

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearings or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or sewer utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the

ORDER NO. PSC-92-0413-PCO-TL

DOCKET NO. 910506-TL

PAGE 4

form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.