

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for certifi-) DOCKET NO. 900823-TI
cate to provide interexchange) ORDER NO. PSC-92-1279-CFO-TI
telecommunications services by) ISSUED: 11/09/92
STOREFINDER, INC.)
_____)

ORDER DENYING REQUEST FOR CONFIDENTIAL
CLASSIFICATION OF DOCUMENT NO. 8248-92

On July 27, 1992, Southern Bell Telephone and Telegraph Company (Southern Bell or the Company) filed usage data from the Storefinder, Inc. (Storefinder/Domino's) experiment as required by Order No. 24386. The material at issue has been assigned Document Number 8248-92 by the Commission. It was filed with a Request for Confidential Classification (Request). In this docket, similar material has been found to be proprietary confidential business information under the terms of Section 364.183, Florida Statutes. Pursuant to that Statute, such material was kept confidential and exempt from Section 119.07(1), Florida Statutes.

An element of the statutory test for proprietary confidential business information is that the material "has not been disclosed." Section 364.183(3), Florida Statutes. In the instant case, Southern Bell mistakenly attached the actual data which it sought to protect to each copy of its Request. These were mailed to everyone on the service list in the docket and distributed throughout the Commission. Apparently, the unopened envelope containing a copy of the Request was returned to the Company by GTE Florida Incorporated. The other copy which was sent to a non-Commission address was sent to the attorney for Storefinder/Domino's. Thus, there was initially no disclosure beyond the walls of the Commission. However, the Company's Request, with the data attached, joined the stream of paper which flows throughout this Commission and possibly beyond. As with any pleading, there was no limitation placed on the material with regard to copies being made or interested persons viewing it. The material has been treated as a public document in a public agency.

There is concern that the party which may be harmed by Southern Bell's disclosure of the material is one of the Company's customers and not the Company itself. The Staff provided both Southern Bell and Domino's with an opportunity to argue that accidental disclosure is not disclosure within the meaning of the Statute. Neither party has taken this opportunity to make a case for the confidential treatment of the material at issue. Under the circumstances, it is evident that the data has been disclosed and cannot be found to be proprietary confidential business information under the terms of Section 364.183, Florida Statutes. Accordingly,

DOCUMENT NUMBER-DATE

13155 NOV -9 1992

FPSC-RECORDS/REPORTING

ORDER NO. PSC-92-1279-CFO-TI
DOCKET NO. 900823-TI
PAGE 2

under the terms of Section 364.183, Florida Statutes. Accordingly, the Company's July 27, 1992, Request for Confidential Treatment is denied.

Based upon the foregoing, it is

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that Southern Bell Telephone and Telegraph Company's Request for Confidential Treatment of Document No. 8248-92 dated July 27, 1992, is hereby denied.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 9th day of November, 1992.



SUSAN F. CLARK, Commissioner
and Prehearing Officer

(S E A L)

CWM

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 hearing 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,

ORDER NO. PSC-92-1279-CFO-TI
DOCKET NO. 900823-TI
PAGE 3

the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the 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.