

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by BellSouth
Telecommunications, Inc. for
arbitration of certain issues in
interconnection agreement with
Supra Telecommunications and
Information Systems, Inc.

DOCKET NO. 001305-TP
ORDER NO. PSC-02-0663-CFO-TP
ISSUED: May 15, 2002

ORDER DENYING REQUEST FOR CONFIDENTIAL CLASSIFICATION OF
DOCUMENT NO. 04493-02
(CROSS-REFERENCED DOCUMENTS NOS. 03731-02 AND 03690-02)

On September 1, 2000, BellSouth Telecommunications, Inc. (BellSouth) filed a petition for arbitration of certain issues in an interconnection agreement with Supra Telecommunications and Information Systems, Inc. (Supra). Supra filed its response, and this matter was set for hearing. An administrative hearing was held on September 26-27, 2001.

On April 1, 2002, Supra's Chairman and CEO, Olukayode A. Ramos, sent a letter, with attached exhibits (Document No. 04493-02 and cross-referenced Documents Nos. 03731-02 and 03690-02), to this office and copied the other Commissioners, the docket file, the General Counsel's office, the State Attorney's office, and BellSouth's attorney.

On April 23, 2002, BellSouth filed a Request for Specified Confidential Classification for the letter. On April 24, 2002, BellSouth filed an Amended Request for Confidential Classification regarding this same information to correct a typographical error in its initial Request. On May 1, 2002, Supra filed an Objection to BellSouth's Request.

In its Request, BellSouth contends that the information in the letter pertains to commercial arbitration proceedings between the two parties, which BellSouth contends the parties are contractually obligated to keep confidential. Because the parties' contract requires that the information be kept confidential, BellSouth believes this information must be protected pursuant to Section 364.183, Florida Statutes. BellSouth identifies the specific pages and lines that it believes should be afforded confidential classification and the detailed justification for each item in its

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request as set forth in Attachment A to this Order, which is attached and incorporated herein by reference.

Supra argues, however, that the information has already been made a matter of public record, and as such, cannot now be classified as confidential. Supra argues that BellSouth itself has already disclosed this information to Commission staff and that this information has otherwise been communicated publicly within the Commission. Supra further emphasizes that it was compelled to provide the subject letter in order to dispel any false understanding that this office may have received by incorrect information Supra believes BellSouth provided to Commission staff and this office.

Florida law presumes that documents submitted to governmental agencies shall be public records. The only exceptions to this presumption are the specific statutory exemptions provided in the law and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. This presumption is based on the concept that government should operate in the "sunshine." Rule 25-22.006(4)(c), Florida Administrative Code, provides that it is the Company's burden to demonstrate that the documents fall into one of the statutory examples set out in Section 364.183, Florida Statutes, or to demonstrate that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

Section 364.183(3), Florida Statutes, in pertinent part, provides:

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 unless 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.

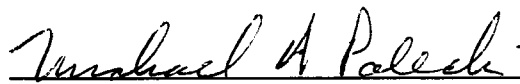
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Based on the definition of proprietary confidential business information in Section 364.183(3), Florida Statutes, I find that BellSouth's Request for Confidential Classification should be denied. The letter submitted by Supra on April 1, 2002, was submitted as a public document and as such, became a matter of the public record. Once disclosed, it is not possible to "put the chicken back in the egg" so to speak. The information has been disclosed and such disclosure was not made pursuant to ". . . a statutory provision, an order of a court or administrative body, or private agreement," as allowed by Section 364.183, Florida Statutes. Therefore, BellSouth's Request for Confidential Classification of Supra's April 1, 2002, letter to this office, Document No. 04493-02 and cross-referenced Document Nos. 03731-02 and 03690-02, is hereby denied.

Based on the foregoing, it is therefore

ORDERED by Commissioner Michael A. Palecki, as Prehearing Officer, that BellSouth Telecommunications, Inc.'s Request for Specified Confidential Classification of Document No. 04493-02 and cross-referenced Documents Nos. 03731-02 and 03690-02, as amended, is hereby denied.

By ORDER of Commissioner Michael A. Palecki, as Prehearing Officer, this 15th Day of May, 2002.



MICHAEL A. PALECKI
Commissioner and Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, 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.

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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF CONFIDENTIAL
BELLSOUTH INFORMATION IN THE LETTER AND EXHIBITS I THROUGH IX OF
SUPRA'S CHAIRMAN AND CEO, OLUKAYODE A. RAMOS FILED APRIL 1, 2002, IN
FLORIDA DOCKET NO. 001305-TP**

Explanation of Proprietary Information

1. This information contains substantive references to a commercial arbitration award dated June 5, 2001 including the October 22, 2001 Final Award of the Tribunal in Consolidated Arbitrations, and the February 22, 2002 Interpretation of Awards in Consolidated Arbitrations III and IV. Both BellSouth and Supra are bound by the existing Interconnection Agreement to keep the results of the arbitration confidential. Since the public release of this information is contractually prohibited, it is entitled to confidential classification pursuant to Section 364.183, Florida Statutes.
2. This document contains customer specific information which the Commission has always zealously protected. Thus, the disclosure of this information to BellSouth's competitors would impair BellSouth's ability to compete and the information is entitled to confidential classification pursuant to Section 364.183, Florida Statutes. In addition, this information is valuable because it is used by BellSouth in conducting its business. Therefore, this information should be classified as proprietary, confidential business information exempt from the Open Records Act.

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ATTACHMENT A

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LETTER AND EXHIBITS

<u>Location</u>	<u>Reason</u>
Pg 2, Lines 15-17, 20-23	1
Pgs 4, Lines 5-10, 11-15, 26-29, 31-33, 37-43	1
Pg 5, Lines 4-9, 10-14, 21-41	1
Pg 6, Lines 2-18, 20-22, 25-27	1
Pg 9, Lines 2-3, 7-8, 10-11	1
Pg 11-15, Entire Document	1
Pg 16, Lines 3,11, 14,18,20	2
Pg 17-28, Entire Document	1
Pg 29, Lines 3,11, 14, 18, 20	1
Pg 30, 24, 25	2
Pg 33, Lines 11-18, 21-26	1