

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for expedited review and cancellation of BellSouth Telecommunications, Inc.'s Key Customer promotional tariffs and for investigation of BellSouth's promotional pricing and marketing practices, by Florida Digital Network, Inc.

DOCKET NO. 020119-TP

In re: Petition for expedited review and cancellation of BellSouth Telecommunications, Inc.'s Key Customer promotional tariffs by Florida Competitive Carriers Association.

DOCKET NO. 020578-TP

In re: Petition for expedited review and cancellation or suspension of BellSouth Telecommunications, Inc.'s Key Customer tariff filed 12/16/02, by Florida Digital Network, Inc.

DOCKET NO. 021252-TP
ORDER NO. PSC-03-1180-CFO-TP
ISSUED: October 21, 2003

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION OF
DOCUMENT NO. 02213-03 (X-REF. DOCUMENT NO. 01696-03)

On January 15, 2002, BellSouth Telecommunications, Inc. (BellSouth) filed its 2002 Key Customer promotional tariff, Tariff No. T-020035, which became effective on January 31, 2002, and expired on June 25, 2002. On February 14, 2002, Florida Digital Network, Inc. (FDN) filed a Petition for Expedited Review and Cancellation of BellSouth Telecommunications, Inc.'s Key Customer Promotional Tariffs and For An Investigation of BellSouth Telecommunications, Inc.'s Promotional Pricing and Marketing Practices. FDN's Petition triggered the establishment of Docket No. 020119-TP.

A subsequent "Key Customer" promotional tariff offering from BellSouth led to the establishment of Docket No. 020578-TP, and by Order No. PSC-02-1237-FOF-TP, issued September 9, 2002, Docket

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Nos. 020119-TP and 020578-TP were consolidated for purposes of hearing. A third "Key Customer" promotional tariff filing from BellSouth triggered Docket No. 021252-TP, and this docket was consolidated as well. Collectively, all three of the "Key Customer" tariffs were evaluated in the administrative hearing held on February 19-20, 2003.

Commission Staff's post-hearing recommendation addressing the allegations raised by FDN was presented at the May 20, 2003, Agenda Conference. By Order No. PSC-03-0726-FOF-TP (Key Customer Order), issued on June 19, 2003, all of our decisions for these consolidated dockets were set forth.

On July 7, 2003, FDN filed a Motion for Reconsideration (Motion) of Order No. PSC-03-0726-FOF-TP, Final Order on BellSouth's Key Customer Tariffs (Key Customer Order). On July 14, 2003, BellSouth filed a Response in Opposition to Florida Digital Networks, Inc.'s Motion for Reconsideration/Clarification (Response). By Order No. PSC-03-1057-FOF-TP, issued September 23, 2003, the Motion for Reconsideration was denied.

On February 19, 2003, BellSouth filed an Errata Sheet and Revised Exhibit WBS-1 to W. Bernard Shell's Direct Testimony, filed on October 23, 2002. On the same date, BellSouth filed a Notice of Intent to Request Specified Confidential Classification of these documents. On March 5, 2003, BellSouth Telecommunications, Inc. (BellSouth) filed a Request for Specified Confidential Classification for Exhibit WBS-1, and withdrew the Notice of Intent to Request Specified Confidential Classification for the Errata Sheet.

BellSouth contends that the information contained in Revised Exhibit WBS-1 (Document No. 02213-03, x-ref. Document No. 01696-03) is confidential, business information that is proprietary to BellSouth and that the release of such information would impair BellSouth's ability to contract for goods and services on favorable terms. Further, BellSouth states that disclosure of the information would violate Florida law. Attachment A contains an explanation and the location of the claimed proprietary information. BellSouth declares that the information is valuable, has not been generally disclosed, and BellSouth strives to keep it secret. Therefore, BellSouth requests that the information be

classified as confidential, proprietary business information pursuant to Sections 364.24 and 364.183, Florida Statutes, and be held exempt from the public disclosure requirements of Section 119.07, Florida Statutes.

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.

Based on the definition of proprietary confidential business information in Section 364.183(3), Florida Statutes, it appears that the material described herein is proprietary business information in accordance with Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. Revised Exhibit WBS-1 is a spreadsheet document, and BellSouth's Request specifically applies to the numeric values in Column A. The values therein reflect BellSouth's cost to provide certain services.

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Disclosure of this information would impair BellSouth's ability to contract for services on favorable terms. Therefore, BellSouth's Request for Confidential Classification of Revised Exhibit WBS-1 is hereby granted.

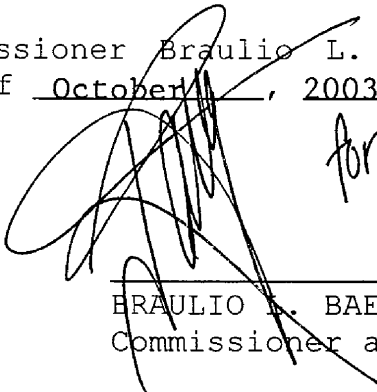
Based on the foregoing, it is

ORDERED by Braulio L. Baez, as Prehearing Officer, that BellSouth Telecommunications, Inc.'s Request for Confidential Classification of Revised Exhibit WBS-1 (Document No. 02213-03, x-ref. Document No. 01696-03) as described in Attachment A, which is incorporated by reference into this order, is hereby granted. It is further

ORDERED that pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, the confidentiality granted to the material specified herein shall expire eighteen (18) months from the date of the issuance of this Order, in the absence of a renewed request for confidentiality pursuant to Section 364.183, Florida Statutes. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 21st Day of October, 2003.


for Commissioner Braulio L. Baez

BRAULIO L. BAEZ
Commissioner and Prehearing Officer

(S E A L)

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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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 25-22.0376, Florida Administrative Code; or (2) 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.