

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint and request for emergency relief against Verizon Florida, LLC for anticompetitive behavior in violation of Sections 364.01(4), 364.3381, and 364.10, F.S., and for failure to facilitate transfer of customers' numbers to Bright House Networks Information Services (Florida), LLC, and its affiliate, Bright House Networks, LLC.

DOCKET NO. 070691-TP

In re: Complaint and request for emergency relief against Verizon Florida, L.L.C. for anticompetitive behavior in violation of Sections 364.01(4), 364.3381, and 364.10, F.S., and for failure to facilitate transfer of customers' numbers to Comcast Phone of Florida, L.L.C. d/b/a Comcast Digital Phone.

DOCKET NO. 080036-TP  
ORDER NO. PSC-08-0672-CFO-TP  
ISSUED: October 10, 2008

ORDER GRANTING BRIGHT HOUSE NETWORK'S  
REQUEST FOR CONFIDENTIAL TREATMENT OF  
DOCUMENT NO. 04640-08 AND MOTION FOR PROTECTIVE ORDER

On May 30, 2008, Bright House Networks, LLC ("Bright House") filed a Request for Confidential Treatment and Motion for Protective Order. Bright House seeks confidential Treatment of certain information contained in the Direct Testimony of Timothy M. Frendberg ("Document No. 04640-08"). This information relates to Verizon's retention marketing activity directed at Bright House and its results. Bright House states that this information fits the definition of proprietary confidential business information found in section 364.183(3), Florida Statutes ("F.S."). Bright House states that certain information provided in Document No. 04640-08 would, if disclosed, provide competitors with information regarding marketing strategies, and the effectiveness thereof, which would allow such competitors an unfair advantage in crafting competitive strategies targeted at Bright House's operations. Bright House states that this information is not otherwise readily available in the market, and divulging it in this context would provide competitors an unfair market advantage. Furthermore, Bright House states that it has treated, and continues to treat, this information as proprietary confidential business information.

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 ("F.A.C."), provides that it is the Company's burden to demonstrate that the documents fall into one of the statutory

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examples set out in Section 364.183, F.S., 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), F.S., in pertinent part, provides the following:

[t]he 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.

The filings of Bright House have been reviewed to confirm that the information for which it seeks protection against disclosure qualifies for exemption. Upon review, I find that the information described herein is proprietary confidential business information in accordance with Section 364.183, F.S., and Rule 25-22.0006, F.A.C. Disclosure of this information would harm Bright House by giving its competitors an unfair advantage in developing their own competitive strategies. As such, Bright House’s Request for Confidential Treatment and Motion for Protective Order for the information in Document No. 04640-08 is hereby granted.


Based on the foregoing, it is

ORDERED by Commissioner Lisa Polak Edgar, as Prehearing Officer, that Bright House Networks, LLC’s Request for Confidential Treatment and Motion for Protective Order of Document No. 04640-08 is granted. It is further

ORDERED that pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, any confidentiality granted to the documents specified herein shall expire eighteen (18) months from the date of issuance of this Order in the absence of a renewed request for confidentiality pursuant to Section 364.183. 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 Lisa Polak Edgar, as Prehearing Officer, this 10th day of October, 2008.

  
LISA POLAK EDGAR  
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, 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 Office of Commission Clerk, 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.