

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by ESCAMBIA COUNTY) DOCKET NO. 871268-TL
BOARD OF COUNTY COMMISSIONERS for)
Extended Area Service between all) ORDER NO. 21484
Escambia County Communities)
ISSUED: 6-29-89

ORDER ON CONFIDENTIALITY

This docket was initiated upon a request for countywide Extended Area Service (EAS) filed by the Escambia Board of County Commissioners on December 1, 1987. The request for countywide EAS involves the following exchanges: Pensacola, Cantonment, Molino, Walnut Hill, Davisville and Century. These exchanges are served by either Southland Telephone Company (Southland) or Southern Bell Telephone and Telegraph Company (Southern Bell).

In addition to involving intercompany routes, this request also involves interLATA (Local Access Transport Area) routes. Southern Bell's Century exchange and Southland's Davisville and Walnut Hill exchanges are located in the Mobile, Alabama LATA. The remaining exchanges, consisting of Southern Bell's Pensacola and Cantonment exchanges, and Southland's Molino exchange, are located in the Pensacola, Florida LATA.

Order No. 18615, issued December 29, 1987, directed Southern Bell and Southland to complete traffic studies on the affected routes. A subsequent order, Order No. 19000, granted the companies an extension of time to complete and submit the traffic data due to the complexities inherent in completing an interLATA traffic study. Additionally, the Prehearing Officer granted both companies' requests that the results of their traffic studies be afforded confidential treatment. The Prehearing Officer ruled the traffic data confidential on the basis that the disclosure of the traffic volume on the interLATA routes would aid competitors to the detriment of the long distance carriers which currently provide service on the affected routes. Three orders have been issued to date which grant specified confidential treatment to the traffic data along the interLATA routes in this docket: Order No. 19769, issued August 8, 1988 (Southland data); Order No. 19978, issued September 12, 1988 (Southland data); and Order No. 20057, issued September 23, 1988 (Southern Bell data).

By Order No. 20605, issued January 17, 1989, we proposed granting countywide EAS in Escambia County. On February 2, 1989, before the proposed agency action became final, Southland filed its Petition protesting the action proposed by the Commission.

On March 31, 1989, an Order on Prehearing Procedure, Order No. 20970, was issued. This Order identified the issues to be addressed at the upcoming hearing and established deadlines for certain key activities in the proceeding. Among other things, this Order directed the parties to file direct testimony by April 24, 1989; rebuttal testimony by May 1, 1989; and prehearing statements by May 1, 1989.

On April 24, 1989, Southland filed its direct testimony of Thomas E. Wolfe, along with a request for confidential treatment of portions of the exhibits identified in the filing

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as exhibits TW-1, TW-2 and TW-4. On April 24, 1989, Southern Bell filed its direct testimony of Edna F. Bailey, Sandy E. Sanders and Ann M. Barkley. No request for confidentiality accompanied the Southern Bell filing.

On May 2, 1989, Southern Bell filed a request for confidential treatment for certain information included in the direct testimony of Sandy E. Sanders previously filed on April 24, 1989, and identified in that filing as exhibits 2, 3 and 4. Southern Bell also requested that the original Sanders filing of April 24th be returned to counsel for the company and that the Commission substitute the May 2nd filing in its place.

On May 10, 1989, the Prehearing Conference was held. The Prehearing Officer denied Southland's April 24, 1989, request for confidential treatment. However, the confidential status of portions of Southland's filing was ordered to be preserved while AT&T Communications of the Southern States, Inc. (AT&T) was given an opportunity to file its own confidentiality request for the Southland data. Additionally, the Prehearing Officer deferred ruling on Southern Bell's May 2, 1989, request, pending the filing of briefs by the parties on the legal issues raised by Southern Bell's request. Confidential treatment would be afforded the Southern Bell data in the interim. May 19, 1989, was established as the deadline for submitting the above-referenced filings.

The Hearing in this matter was held on May 23, 1989, in Walnut Hill, Florida. By that time, the briefs on confidentiality requested during the Prehearing Conference had been filed by the appropriate parties. The Hearing Panel declined ruling on the confidentiality requests of Southern Bell, Southland, and AT&T during the Hearing, but did rule that confidential status of the data was to be preserved in the meantime.

On June 7, 1989, a Motion Hearing was held to consider the pending confidentiality issues in this docket. As Prehearing Officer, I considered both written and oral arguments from all parties. I am not prepared to assign merit to the relative positions taken by the parties. I am, however, persuaded by the existing confidentiality orders in this docket. By Orders No. 19769, 19978, and 20057, the interLATA traffic data of both Southern Bell and Southland was deemed confidential, with no time limit fixed in these Orders for expiration of this status. Therefore, it is my belief that the existing confidentiality orders are still in force in this docket and by their terms, they are broad enough to encompass the data at issue here. Other than being more current, the data being considered here is the same as the data already given confidential status by my Orders No. 19769, 19978 and 20057. Additionally, the fact that some inadvertent disclosure of the Southern Bell data may have occurred between April 24, 1989 and May 2, 1989, does not change my ruling in this matter.

Therefore, based on the foregoing it is

ORDERED by Commissioner John T. Herndon, as Prehearing Officer, that the interLATA traffic data filed by Southern Bell Telephone and Telegraph Company and Southland Telephone Company on April 24, 1989, and May 2, 1989, is hereby granted

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confidential treatment pursuant to Rule 25-22.006, Florida Administrative Code, and Section 364.183, Florida Statutes, for the reasons enumerated above.

By ORDER of the Florida Public Service Commission,
this 29th day of JUNE, 1989.

John T. Herndon
JOHN T. HERNDON, Commissioner
and Prehearing Officer

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