

MEMORANDUM

March 12, 1993

TO: DIVISION OF RECORDS AND REPORTING
FROM: DIVISION OF LEGAL SERVICES (PIERSON) *RP*
RE: DOCKETS NOS. 920260-TL, 900960-TL, 910163-TL, 910727-TL

PSC-93-0391-CFO-TL

Attached is a ORDER DENYING REQUEST FOR CONFIDENTIAL CLASSIFICATION OF DOCUMENT NO. 682-93 in the above-referenced docket, which is ready to be issued.

RJP/cmd
Attachment
cc: Division of Communications

682-93.RJP

DOCUMENT NUMBER-DATE

02802 MAR 15 83

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Comprehensive review of) DOCKET NO. 920260-TL
the revenue requirements and)
rate stabilization plan of)
SOUTHERN BELL TELEPHONE AND)
TELEGRAPH COMPANY.)
_____)
In Re: Show cause proceedings) DOCKET NO. 900960-TL
against SOUTHERN BELL TELEPHONE)
AND TELEGRAPH COMPANY for)
misbilling customers.)
_____)
In Re: Petition on behalf of) DOCKET NO. 910163-TL
Citizens of the State of Florida)
to initiate investigation into)
integrity of SOUTHERN BELL)
TELEPHONE AND TELEGRAPH)
COMPANY'S repair service)
activities and reports.)
_____)
In Re: Investigation into) DOCKET NO. 910727-TL
SOUTHERN BELL TELEPHONE AND) ORDER NO. PSC-93-0391-CFO-TL
TELEGRAPH COMPANY's compliance) ISSUED: 03/15/93
with Rule 25-4.110(2), F.A.C.,)
Rebates.)
_____)

ORDER DENYING REQUEST FOR CONFIDENTIAL
CLASSIFICATION OF DOCUMENT NO. 682-93

On December 11, 1992, the Staff of this Commission (Staff) served its second set of interrogatories upon the Florida Interexchange Carriers Association (FIXCA). On January 19, 1993, FIXCA filed its responses to Staff's second set of interrogatories, along with a request for confidential classification for its responses to Interrogatories Nos. 6 through 9. No other party to this proceeding has objected to FIXCA's request.

The information for which FIXCA requests confidential classification consists of aggregate, combined measured toll service (MTS) traffic and revenue data of FIXCA's members for 1991 and the first three quarters of 1992. The MTS data is divided into residential and commercial components. Residential data is given on a total basis, separated only by interLATA versus intraLATA services. Commercial data is given separately for interLATA and intraLATA services, but is further broken down by mileage bands.

Under Section 119.01, Florida Statutes, documents submitted to governmental agencies are public records. The only exceptions to

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this law are specific statutory exemptions and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision.

Pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, the burden of proving that the materials qualify for specified confidential classification falls upon FIXCA. According to Rule 25-22.006, Florida Administrative Code, in order to meet this burden, FIXCA must demonstrate that the materials fall into one of the statutory examples set forth in Section 364.183, Florida Statutes, or that the information is in some other regard proprietary confidential business information, the disclosure of which will cause its members or their ratepayers harm.

To this end, FIXCA argues that the interLATA and intraLATA toll markets are highly competitive. According to FIXCA, "competitors of FIXCA members could use this information -- in combination with publicly available information on FIXCA members' prices and product offerings -- to analyze the customer base of FIXCA members, and to selectively target their own marketing efforts to respond to revealed strengths and/or weaknesses in the marketplace. The disclosure of this competitive toll market information would impair the ability of FIXCA members to compete effectively in the interLATA and intraLATA toll markets in Florida." FIXCA, therefore, argues that the information qualifies as proprietary confidential business information under Section 364.183(3)(e), Florida Statutes. FIXCA also argues that the information is a trade secret under Section 364.183(3)(a), Florida Statutes; however, it provided no rationale to support this claim.

Upon review, disclosure of this information could not result in harm to any of FIXCA's members. The data are not only aggregate, but combined for all of FIXCA's members. Disclosure of this data would, therefore, reveal little more than the total MTS traffic and revenue in the State of Florida, and competitors of FIXCA's members could not use the information to identify and target specific routes. FIXCA's argument that disclosure of the data will "impair the ability of FIXCA members to compete effectively in the interLATA and intraLATA toll markets in Florida" is, therefore, neither compelling nor convincing.

Based upon the foregoing, it is

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that the Florida Interexchange Carriers Association's request for confidential classification of Document No. 682-93 is denied. It is further

ORDERED that pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, 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 Susan F. Clark, as Prehearing Officer, this 15th day of March, 1993.


SUSAN F. CLARK, Commissioner
and Prehearing Officer

(S E A L)

RJP

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.

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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 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.