

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Comprehensive review of revenue requirements and rate stabilization plan of SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY.)	DOCKET NO. 920260-TL
)	
In Re: Investigation into the integrity of SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S repair service activities and reports.)	DOCKET NO. 910163-TL
)	
In Re: Investigation into SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S compliance with Rule 25-4.110(2), F.A.C, Rebates.)	DOCKET NO. 910727-TL
)	
In Re: Show cause proceeding against SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY for misbilling customers.)	DOCKET NO. 900960-TL ORDER NO. PSC-93-0404-CFO-TL ISSUED: 03/16/93
)	

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION
OF DOCUMENT NO. 813-93 (15028-92 AND 15029-92)

On November 25, 1992, the Staff of the Florida Public Service Commission (Staff) served its Fourteenth Request for Production of Documents (POD) upon BellSouth Telecommunications, Inc., d/b/a Southern Bell Telephone and Telegraph Company (SBT or Company). On December 30, 1992, SBT filed separate responses to POD Items 129 and 130, which were designated by this Commission as Documents Nos. 15028-92 and 15029-92, respectively, with notices of intent to request specified confidential classification. SBT filed its request for confidential classification of its responses to Items 129 and 130 on January 20, 1993. At that time, Document No. 813-93 was assigned to the materials at issue. This Order addresses the confidentiality of the materials under both designations.

Under Section 119.01, Florida Statutes, documents submitted to governmental agencies are public records. The only exceptions to this law are specific statutory exemptions and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision.

DOCUMENT NUMBER-DATE
02867 MAR 16 8
FPSC-RECORDS/REPORTING

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 SBT. According to Rule 25-22.006, Florida Administrative Code, SBT must meet this burden by demonstrating that the materials fall into one of the statutory examples set forth in Section 364.183, Florida Statutes, or by demonstrating that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

To this end, SBT contends that its response to POD Item 129 concerns its deployment of digital and/or fiber optic facilities. SBT argues that, if this information is made public, its competitors would be able to "beat" it to the market. SBT also contends that the information in response to POD Item 129 reflects SBT's cost to provide certain services. If the information were disclosed, SBT contends that it would give its competitors an unfair advantage, in that they would know the price or rate below which SBT could not provide the service. Finally, SBT argues, somewhat generally, that the information is used by SBT in conducting its business, that the materials are valuable to SBT, and that SBT "strives to keep it secret." Southern Bell concludes that the materials are entitled to confidential treatment pursuant to Chapters 364 and 119, Florida Statutes.

As for its response to POD Item 130, SBT again maintains that this information concerns its deployment of digital and/or fiber optic facilities, and that this information could be used by its competitors to "beat" SBT to the market. SBT also contends that this information contains vendor-specific product and pricing information which, if disclosed, would impair SBT's ability to contract for goods and services on favorable terms. SBT further argues that its response contains customer-specific information related to Microtel's deployment of facilities which, if disclosed, could give Microtel's competitors an unfair advantage by allowing them to target the most desirable routes. Finally, SBT argues, again somewhat generally, that the information is used by SBT in conducting its business, that the materials are valuable to SBT, and that SBT "strives to keep it secret." For these reasons Southern Bell concludes that the materials are entitled to confidential treatment pursuant to Chapters 364 and 119, Florida Statutes.

Upon review, the materials provided in response to POD Item 129 do indeed reflect SBT's cost to provide certain services, the

disclosure of which would likely provide its competitors with the unfair advantage of knowing the price below which SBT could not provide such services. Accordingly, such information qualifies as confidential, proprietary business information. The materials also include non-aggregate, route-specific information regarding SBT's and Microtel's deployment of digital and fiber optic facilities. Since such information could allow their competitors to identify and target the most traffic-intensive routes, which could clearly harm SBT, Microtel and, ultimately, their customers, such information has consistently been held by this Commission to be confidential. As for SBT's response to POD Item 130, these materials also include non-aggregate, route-specific information regarding SBT's and Microtel's deployment of facilities. The response to POD Item 130 also includes vendor- and service-specific pricing negotiated by SBT, the disclosure of which could impair SBT's ability to contract for goods and services on favorable terms. These categories of information have also been consistently held to be confidential.

Based upon the foregoing analysis, SBT has satisfactorily demonstrated that the materials are exempt from the disclosure requirements of Section 119.07(1), Florida Statutes, pursuant to Section 364.183(3)(d) and (e), Florida Statutes. Since this ruling resolves the matter, there is no need to address SBT's remaining rationales for confidential classification.

Therefore, based on the foregoing, it is

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that Southern Bell Telephone and Telegraph Company's January 20, 1993, Request for Confidential Classification of Document No. 813-93 (cross reference Documents Nos. 15028-92 and 15029-92) is hereby granted. It is further

ORDERED that pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, the 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.

ORDER NO. PSC-93-0404-CFO-TL
DOCKETS NOS. 920260-TL, 910163-TL, 910727-TL, 900960-TL
PAGE 4

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 16th 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.

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

ORDER NO. PSC-93-0404-CFO-TL
DOCKETS NOS. 920260-TL, 910163-TL, 910727-TL, 900960-TL
PAGE 5

review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.