

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation to deter- ) DOCKET NO. 920255-TL  
mine whether LEC PATS is compet- ) ORDER NO. PSC-93-0981-CFO-TL  
itive and whether LEC PATS ) ISSUED: June 30, 1993  
should be regulated differently )  
than it is currently regulated. )  
\_\_\_\_\_)

ORDER ADDRESSING REQUEST FOR SPECIFIED CONFIDENTIAL  
CLASSIFICATION OF DOCUMENT NUMBER 8794-92

This Order addresses an unopposed request for Specified Confidential Classification by BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company (Southern Bell or the Company). Southern Bell asserts generally that the material for which confidential classification is sought is intended to be and is treated by Southern Bell as private and has not been disclosed except pursuant to agreement to maintain confidentiality.

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

On August 6, 1992, Southern Bell filed its request for Confidential Treatment Regarding Responses to the Office of Public Counsel's (OPC's) First Request for Production of Documents. Document No. 11250-92 is a refileing of and is cross-referenced to Document No. 8794-92. The response consists of four documents, three of which were entered into the record during the hearing. The fourth document, an Interoffice Memorandum dated May 8, 1992, from David Conley to "25" to "addressees," consisting of two pages, was not used by OPC at the hearing and is being returned to the Company.

Southern Bell requests confidential treatment of information in three documents: "Maximizing Value in Public Telephones," BellSouth Telecommunications, BTOC Review, April 16, 1992,

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consisting of 44 pages; "Public Telephone Business Strategic Recommendations," Executive Policy Council (EPC) approval, three pages, dated June 2, 1992; and Draft BellSouth Pay Telephone Position Paper for Florida, attached to March 28, 1992, memorandum from David Conley to Twyla Martin. These documents were used in Exhibit 21 at the hearing. Southern Bell argues that Section 364.183 provides that proprietary confidential business information includes "information concerning bids or other contractual data, the disclosure of which would impair the efforts of the company to contract for services on favorable terms." Southern Bell contends that the documents are renditions of its strategic plans for its Public Communications services. Southern Bell argues that the plans contain strategies of a long and short term basis for both marketing and implementation of coin services. According to Southern Bell, disclosure of its long and short term strategic plans for its coin operations to NPATS providers would greatly impair Southern Bell's ability to compete for locations and would give NPATS providers commercially valuable information not otherwise available to them.

Upon review, we agree that this information should be held confidential. The Commission has found pay telephone service to be effectively competitive for locations. If competitors had access to this information, it could put Southern Bell at a disadvantage. Accordingly, the above-described information in Document No. 8794-92 shall be exempt from Section 119.07(1).

Based on the foregoing, it is


ORDERED by Chairman J. Terry Deason, as Prehearing Officer, that BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company's August 6, 1992, Request for Specified Confidential Classification of Document No. 8794-92 (cross-referenced to Document No. 11250-92) 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 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

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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 Chairman J. Terry Deason, as Prehearing Officer, this 30th day of June, 1993.

  
J. TERRY DEASON, Chairman and  
Prehearing Officer

( S E A L )

AQP/ABG

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 120.63, 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

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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.