

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into
pricing of unbundled network
elements (BellSouth track).

DOCKET NO. 990649A-TP
ORDER NO. PSC-02-0307-CFO-TP
ISSUED: March 8, 2002

ORDER GRANTING REQUESTS FOR CONFIDENTIAL TREATMENT OF
DOCUMENTS NOS. 00981-02, 00995-02, and 00998-02

On May 25, 2001, this Commission issued its Final Order on Rates for Unbundled Network Elements Provided by BellSouth (Phases I and II), Order No. PSC-01-1181-FOF-TP. Furthermore, we ordered BellSouth to refile, within 120 days of the issuance of the Order, revisions to its cost study addressing xDSL-capable loops, network interface devices, and cable engineering and installation. The parties to the proceeding were also ordered to refile within 120 days of the issuance of the Order, proposals addressing network reliability and security concerns as they pertain to access to subloop elements. Order No. PSC-01-1904-PCO-TP, issued September 24, 2001, Order No. PSC-01-2189-PCO-TP, issued November 8, 2001, Order No. PSC-01-2399-PCO-TP, issued December 11, 2001, and Order No. PSC-02-0117-PHO-TP, issued January 25, 2002, established the procedure for the hearing regarding BellSouth's 120-day filing.

On January 25, 2002, BellSouth filed a Request for Specified Confidential Classification. The request seeks confidential classification of Daonne Caldwell's Late-Filed Exhibit No. 7 (Document No. 00981-02). Within the request, BellSouth argues that this document contains vendor-specific pricing, customer proprietary information, and confidential business information. BellSouth contends that it has treated and intends to continue to treat the information for which confidential classification is sought as private, and that this information has not been generally disclosed.

On January 28, 2002, BellSouth filed a Request for Specified Confidential Classification regarding its revised cost studies (labeled revision no. 3) and BellSouth's revised BSTLM loop Model (labeled revision no. 2) (Document No. 00995-02). The cover letter indicates that the request is intended to cover the revised cost study and loop model dated January 28, 2002, as well as the advance release of these file to the parties on January 24, 2002. Within the request, BellSouth argues that these filings contain vendor-specific pricing, customer proprietary information, and

DOCUMENT NUMBER DATE

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confidential business information. BellSouth asserts that the public disclosure of this information would provide competitors with an unfair advantage in future negotiations, and corresponding information is not available to BellSouth. BellSouth treats the information as private, and it is not generally disclosed.

Also on January 28, 2002, BellSouth filed a Request for Specified Confidential Classification regarding BellSouth's revised DSLAM.xls file, which is part of BellSouth's revised cost studies (labeled revision no. 3) (Document No. 00998-02). Similarly, BellSouth alleges that this filing contains vendor-specific pricing, customer proprietary information, and confidential business information that would cause competitive harm to BellSouth, and would place it at a disadvantage in future negotiations.

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, provides that it is the Company's burden to demonstrate that the documents fall into one of the statutory examples set out in Section 364.183, Florida Statutes, or to demonstrate that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

Specifically, with regard to Daonne Caldwell's Late-Filed Exhibit No. 7, BellSouth contends that the entire document should be protected for the reasons more fully set forth in Attachment A, which is attached and incorporated herein. With regard to BellSouth's revised cost studies (labeled revision no. 3) and BellSouth's revised BSTLM loop Model (labeled revision no. 2), BellSouth maintains that the files and CDS identified in Attachment B, which is attached and incorporated herein, should be protected for the reasons expressed therein. Similarly, pertaining to its revised DSLAM.xls file, BellSouth requests the pages, columns and lines identified in Attachment C be protected for the reasons set forth therein.

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Section 364.183(3), Florida Statutes, in pertinent part, provides:

The 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.

Based on the definition of proprietary confidential business information in Section 364.183(3), Florida Statutes, it appears that the material described herein is proprietary business information in accordance with Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. Disclosure of this information could be detrimental to BellSouth's operations, could impair BellSouth's ability to compete, and its ability to contract for goods and services. As such, BellSouth's Requests for Confidential Classification addressing Documents Nos. 00981-02, 00995-02, and 00998-02, are hereby granted. Pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, the confidentiality granted to the material specified herein shall expire eighteen (18) months from the date of the issuance of this Order, in the absence of a renewed request for confidentiality pursuant to Section 364.183, Florida Statutes.

Based on the foregoing, it is therefore

ORDERED by Chairman Lila A. Jaber, as Prehearing Officer, that BellSouth Telecommunications, Inc.'s Requests for Specified Confidential Classification addressing Documents Nos. 00981-02, 00995-02, and 00998-02, are 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 material specified herein shall

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expire eighteen (18) months from the date of the issuance of this Order, in the absence of a renewed request for confidentiality pursuant to Section 364.183, Florida Statutes. 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 Chairman Lila A. Jaber, as Prehearing Officer, this 8th Day of March, 2002.

A handwritten signature in cursive script, appearing to read 'Lila A. Jaber', is written over a horizontal line. The signature is fluid and extends slightly to the right of the line.

LILA A. JABER
Chairman and Prehearing Officer

(S E A L)

WDK

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.

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

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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 the Commission Clerk and Administrative Services, 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.

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ATTACHMENT A

BellSouth Telecommunications, Inc.
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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF ATTACHMENT NO. 1
TO DAONNE CALDWELL LATE-FILED EXHIBIT NO. 7 AS FILED ON
JANUARY 25, 2002 IN FLORIDA PUBLIC SERVICE
COMMISSION DOCKET 990649A-TP**

Explanation of Proprietary Information

- A. This information reflects vendor specific prices negotiated by BellSouth. Public disclosure of this information would impair BellSouth's ability to contract for goods and services on favorable terms. This information is valuable, it is used by BellSouth in conducting its business and BellSouth strives to keep it secret. Therefore, this information should be classified as proprietary, confidential business information pursuant to Section 364.183(3)(d) Florida Statutes and is exempt from the Open Records Act.

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BASIS FOR REQUEST

Attachment No. 1 (13 pages)
Entire Document

1

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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELL SOUTH'S
REVISION 3 - COMPLIANCE COST STUDY (1 CD-ROM) AND THE BSTLM
LOOP MODEL (4 CD-ROMs) AS FILED
ON JANUARY 28, 2002 IN FLORIDA PUBLIC SERVICE
COMMISSION DOCKET 990649A-TP**

Explanation of Proprietary Information

- A. This information reflects vendor specific prices negotiated by BellSouth. Public disclosure of this information would impair BellSouth's ability to contract for goods and services on favorable terms. This information is valuable, it is used by BellSouth in conducting its business and BellSouth strives to keep it secret. Therefore, this information should be classified as proprietary, confidential business information pursuant to Section 364.183(3)(d) Florida Statutes and is exempt from the Open Records Act.

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BASIS FOR REQUEST

Compliance Filing CD - Proprietary Files:

ADUF.XLS	1
DS1_CALC.XLS	1
DSLAM.XLS	1
EODUF.XLS	1
FL-NID.XLS	1
FLST_SST_P.XLS	1
FLUNTW.XLS	1
FL-USL.XLS	1
IO_VG2.XLS	1
IO_VG4.XLS	1
MDF_FUND.XLS	1
ODUF.XLS	1

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ATTACHMENT B

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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S
REVISION 3 - COMPLIANCE COST STUDY (1 CD-ROM) AND THE BSTLM
LOOP MODEL (4 CD-ROMs) AS FILED
ON JANUARY 28, 2002 IN FLORIDA PUBLIC SERVICE
COMMISSION DOCKET 990649A-TP**

CONTINUED

BSTLM (CD 1 of 4) – Entire CD	1
BSTLM (CD 2 of 4) – Entire CD	1
BSTLM (CD 3 of 4) – Entire CD	1
BSTLM (CD 4 of 4) – Entire CD	1

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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELL SOUTH'S
REVISION 3 - COMPLIANCE COST STUDY (DSLAM.XLS) AS FILED
ON JANUARY 28, 2002 IN FLORIDA PUBLIC SERVICE
COMMISSION DOCKET 990649A-TP**

Explanation of Proprietary Information

- A. This information reflects vendor specific prices negotiated by BellSouth. Public disclosure of this information would impair BellSouth's ability to contract for goods and services on favorable terms. This information is valuable, it is used by BellSouth in conducting its business and BellSouth strives to keep it secret. Therefore, this information should be classified as proprietary, confidential business information pursuant to Section 364.183(3)(d) Florida Statutes and is exempt from the Open Records Act.

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BASIS FOR REQUEST

DSLAM.xls

Page 4 of 7, Column E, Lines 10, 15, 17, 21, 26-27

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Page 7 of 7, Column E, Lines 9, 12, 14, 19, 21, 26-27

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