

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Implementation of requirements arising from Federal Communications Commission's triennial UNE review: Location-Specific Review for DS1, DS3 and Dark Fiber Loops, and Route-Specific Review for DS1, DS3 and Dark Fiber Transport.

DOCKET NO. 030852-TP
ORDER NO. PSC-04-0216-CFO-TP
ISSUED: February 25, 2004

ORDER GRANTING REQUEST FOR SPECIFIED CONFIDENTIAL CLASSIFICATION OF SPECIFIED SPRINT COMMUNICATIONS COMPANY LIMITED PARTNERSHIP DOCUMENTS

I. Case Background

In response to the Federal Communications Commission's ("FCC's") August 21, 2003, Triennial Review Order ("TRO"), this Commission opened two dockets to ascertain whether a requesting carrier is impaired by lack of access to certain incumbent local exchange companies' network elements.

Sprint Communications Company Limited Partnership (Sprint) has filed a Request for Specified Confidential Classification. On January 20, 2004, Sprint filed a request for document number 13584-04 which were Sprint's responses to our staff's discovery requests.

II. Analysis

In its request, Sprint asks for protection of the specific pages and line numbers as set forth in Attachment A, which is attached and incorporated in this Order by reference. Sprint contends that release of this information would provide its competitors with an undue competitive advantage in that they would have access to this competitively sensitive, confidential information.

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.

DOCUMENT NUMBER-DATE

02759 FEB 25 04

FPSC-COMMISSION CLERK

Section 364.183(3), Florida Statutes, states that “proprietary confidential business information” is:

[o]wned 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 information for which Sprint seeks confidential classification is information that, if disclosed, would cause harm to Sprint’s competitive interests and its business operations. Thus, this information qualifies as proprietary confidential business information under Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. As such, Sprint’s request for confidential classification is hereby granted.

Based on the foregoing, it is

ORDERED by Commissioner Charles M. Davidson, as Prehearing Officer, that Sprint Communications Company Limited Partnership’s Request for Specified Confidential Classification of Document No. 13584-04, as set forth in Attachment A, is hereby granted. It is further

ORDERED that pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, any 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. 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.

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By ORDER of Commissioner Charles M. Davidson, as Prehearing Officer, this 25th
day of February, 2004.



CHARLES M. DAVIDSON
Commissioner and Prehearing Officer

(S E A L)

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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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 25-22.0376, Florida Administrative Code; or (2) 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.

ATTACHMENT A

Document and page and line numbers	Justification for Confidential Treatment
Attachment to Sprint LP's Response to Staff's Interrogatory No. 3	This information is proprietary information previously submitted under a claim of confidentiality in Sprint LP's response to staff's TRO data request filed with the Commission on December 3 and 5, 2003. The information is information relating to Sprint's competitive interests, the disclosure of which would impair the competitive business of Sprint. Section 364.183(3)(e), F.S.
Attachment to Sprint LP's Response to Staff's Interrogatory No. 5	This information is proprietary information revealing the location and nature of Sprint LP's collocation arrangements. The information is information relating to Sprint's competitive interests, the disclosure of which would impair the competitive business of Sprint. Section 364.183(3)(e), F.S.
Highlighted information contained in Sprint LP's Response to Staff's Interrogatory No. 7(a)	This information is proprietary information revealing the location and nature of Sprint LP's collocation arrangements. The information is information relating to Sprint's competitive interests, the disclosure of which would impair the competitive business of Sprint. Section 364.183(3)(e), F.S.
Attachment to Sprint LP's Response to Staff's Interrogatory No. 10	This information is proprietary information previously submitted under a claim of confidentiality in Sprint LP's response to staff's TRO data request filed with the Commission on December 3 and 5, 2003. The information is information relating to Sprint's competitive interests, the disclosure of which would impair the competitive business of Sprint. Section 364.183(3)(e), F.S.