

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-04-0218-CFO-TP  
ISSUED: February 25, 2004

ORDER GRANTING REQUESTS FOR SPECIFIED CONFIDENTIAL CLASSIFICATION OF SPECIFIED FLORIDA DIGITAL NETWORK, INC., D/B/A FDN COMMUNICATIONS 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.

Florida Digital Network, Inc., d/b/a FDN Communications (FDN) has filed Requests for Specified Confidential Classification of certain documents produced in this proceeding. The chart below shows the date of the request and the document at issue.

Date of Request	Document No.	Attachment
November		
11	11267-03	A
December		
8	12549-03	B
January		
16	00668-04	C

II. Analysis

In its request, FDN asks for protection of the specific pages and line numbers as set forth in Attachments A through C, which are attached and incorporated in this Order by reference. FDN 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.

DOCUMENT NUMBER-DATE

02761 FEB 25 04

FPC-COMMISSION CLERK

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.

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 FDN seeks confidential classification is information that, if disclosed, would cause harm to FDN'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, FDN's requests for confidential classification are hereby granted.

Based on the foregoing, it is

ORDERED by Commissioner Charles M. Davidson, as Prehearing Officer, that Florida Digital Network, Inc., d/b/a FDN Communications' Requests for Specified Confidential Classification, as set forth in Attachments A-C, are 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.



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CHARLES M. DAVIDSON  
Commissioner and Prehearing Officer

(SEAL)

AJT

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.

Florida Digital Network, Inc. d/b/a  
FDN Communications  
FPSC Docket No. 030852-TP  
Request for Confidential Classification  
November 12, 2003

**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF FDN'S RESPONSES  
TO BELLSOUTH'S INTERROGATORY NOS. 4 & 6**

**Reasons for Claim for Proprietary Information Status**

1. This information contains proprietary investment, market deployment, customer location information and competitive interest information. This information is valuable, is used by FDN in conducting its business, and FDN strives to keep it secret. Therefore, such information relates to competitive interests of FDN, the disclosure of which would impair the competitive business of FDN. See Section 364.183(3)(e), Florida Statutes.
2. This information contains information that FDN strives to keep secret because it is elemental to FDN's business and status in the competitive market place. Therefore, such information is a trade secret. See Section 364.183(3)(a), Florida Statutes.

**FDN's Responses to BST Interrogatory Nos. 4 & 6      Reason**

Page 1, lines 7 through 21  
(beginning with the line under the heading "CLLI Code"): 1, 2

Page 2, lines 3 through 12  
(beginning with the line under the heading "CLLI Code"): 1, 2

**Florida Digital Network, Inc.  
FPSC Docket No. 030852-TP  
Request for Confidential Classification  
December 8, 2003**

**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF FDN'S RESPONSES  
TO BELLSOUTH'S INTERROGATORY NOS. 4 (REVISED) & 20**

**Reasons for Claim for Proprietary Information Status**

1. This information contains proprietary investment, market deployment, customer location information and competitive interest information. This information is valuable, is used by FDN in conducting its business, and FDN strives to keep it secret. Therefore, such information relates to competitive interests of FDN, the disclosure of which would impair the competitive business of FDN. See Section 364.183(3)(e), Florida Statutes.
2. This information contains information that FDN strives to keep secret because it is elemental to FDN's business and status in the competitive market place. Therefore, such information is a trade secret. See Section 364.183(3)(a), Florida Statutes.

**FDN's Responses to BST Interrogatory Nos. 4 (revised) & 20**

**Reason**

Page 1, lines 7 through 26 (beginning with the line under the heading "CLLI Code"):	1, 2
Page 2, lines 3 through 12 (beginning with the line under the heading "Wire Center CLLI Code"):	1, 2

FDN Communications  
FPSC Docket No. 030852-TP  
Request for Confidential Classification  
January 16, 2004

**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF FDN'S  
RESPONSES TO BELLSOUTH'S SECOND REQUEST FOR  
PRODUCTION OF DOCUMENTS NO. 6**

**Reasons for Claim for Proprietary Information Status**

1. This information contains proprietary investment, market deployment, customer location information and competitive interest information. This information is valuable, is used by FDN in conducting its business, and FDN strives to keep it secret. Therefore, such information relates to competitive interests of FDN, the disclosure of which would impair the competitive business of FDN. See Section 364.183(3)(e), Florida Statutes.
2. This information contains information that FDN strives to keep secret because it is elemental to FDN's business and status in the competitive market place. Therefore, such information is a trade secret. See Section 364.183(3)(a), Florida Statutes.

**FDN's Responses to BST RPOD No. 6**

**Reason**

All lines, all pages

1, 2