

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Complaint of Supra Telecommunications and Information Systems, Inc. against BellSouth Telecommunications, Inc. for violation of the Telecommunications Act of 1996; petition for resolution of disputes as to implementation and interpretation of interconnection, resale and collocation agreements; and petition for emergency relief.

DOCKET NO. 980119-TP
ORDER NO. PSC-04-0894-CFO-TP
ISSUED: September 14, 2004

ORDER GRANTING SUPRA'S REQUEST FOR SPECIFIED CONFIDENTIAL CLASSIFICATION FOR DOCUMENT NO. 09341-04 (X-REF. 07483-04)

Originally, on January 23, 1998, Supra Telecommunications and Information Systems, Inc. (Supra) filed a Complaint against BellSouth Telecommunications, Inc. (BellSouth) for alleged violations of the Telecommunications Act of 1996 (Act) and Petition for resolution of certain disputes between BellSouth and Supra regarding interpretation of the Interconnection, Resale, and Collocation Agreements between Supra and BellSouth (Petition). On April 30, 1998, a hearing was held on the complaint. By Order No. PSC-98-1001-FOF-TP, issued July 22, 1998, this Commission rendered its final decision. The Parties filed multiple post-hearing motions. Thereafter, BellSouth filed a Complaint in the federal District Court appealing the Commission's decision. On May 8, 2000, the federal district court granted BellSouth's voluntary dismissal of its appeal to allow this Commission to address the issue of whether BellSouth is in compliance with the on-line edit checking requirements.

By Order No. PSC-03-1178-PAA-TP, issued October 21, 2003, this Commission found that BellSouth had timely complied with the on-line edit checking requirements set forth in Order No. PSC-98-1001-FOF-TP as clarified by the subsequent Orders in this docket. On November 10, 2003, Supra filed its protest to Order No. PSC-03-1178-PAA-TP. On December 5, 2003, BellSouth filed its response to Supra's protest. By Order No. PSC-04-0120-PCO-TP, issued February 3, 2004 (Order Establishing Procedure), the administrative hearing was scheduled, and by Order No. PSC-03-1178-PAA-TP, issued October 21, 2003, the Order Establishing Procedure was modified to reschedule the prehearing.

On May 28, 2004, Supra filed its Request for Specified Confidential Classification for the Affidavit of David A. Nilson, filed July 31, 2002, Document No. 09341-04 (x-ref. 07483-04). Attachment A of Supra's Request contained a detailed line by line itemization of the confidential portions of the affidavit. Supra states that the it filed its Request for the subject information because the information contained therein contains substantive references to a commercial arbitration award dated June 5, 2001. Supra contends that the identified sections of the affidavit contain confidential proprietary business information in accordance with Section 364.183,

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Florida Statutes, and should be held exempt from the public disclosure requirements of Section 119.07, Florida Statutes. Supra asserts that it has treated and intends to continue to treat the information for which confidential classification is sought as private in connection with the instant proceeding, and this information is not generally disclosed.

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, 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. As such, Supra's Request for Specified Confidential Classification of Document No. 09341-04 (x-ref. 07483-04) is hereby granted.

Based on the foregoing, it is


ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that BellSouth Telecommunications, Inc.'s Request for Specified Confidential Classification of Document No. 09341-04 (x-ref. 07483-04), 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 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

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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 Commissioner J. Terry Deason, as Prehearing Officer, this 14th day of September, 2004.


J. TERRY DEASON
Commissioner and Prehearing Officer

(SEAL)

PAX

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, 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 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

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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.