

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In re: Joint Petition by TDS Telecom d/b/a TDS Telecom/Quincy Telephone; ALLTEL Florida, Inc.; Northeast Florida Telephone Company d/b/a NEFCOM; GTC Inc. d/b/a GT Com; Smart City Telecom; ITS Telecommunications Systems, Inc; and Frontier Communications of the South, LLC ["Joint Petitioners"] objecting to and requesting suspension and cancellation of proposed transit traffic service tariff filed by BellSouth Telecommunications, Inc.

Docket No. 050119-TP

COMMISSION
CLERK

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In re: Petition and complaint for suspension And cancellation of Transit Traffic Service Tariff No. FL2004-281 filed by BellSouth Telecommunications, Inc., by AT&T Communications of the Southern States, LLC.

Docket No. 050125-TP

Filed: February 16, 2006

METROPCS CALIFORNIA/FLORIDA, INC.'S FIRST REQUEST FOR SPECIFIED CONFIDENTIAL CLASSIFICATION

MetroPCS California/Florida, Inc. (MetroPCS), pursuant to Rule 25-22.006, Florida Administrative Code, files this First Request for Confidential Classification and states as follows:

1. On January 30, 2006, MetroPCS filed the Rebuttal Testimony and Exhibit of Dena J. Bishop. Ms. Bishop's testimony contains information that is confidential proprietary

CMP business information concerning MetroPCS's market share and operating expenses.

COM _____ 2. Because Ms. Bishop's testimony contains information that is confidential and

CTR _____ proprietary, MetroPCS simultaneously filed a Notice of Intent to Request Confidential

ECR _____ Classification pursuant to rule 25-22.006(3)(a), Florida Administrative Code, in order to allow

GCL the Commission to take possession of the testimony without delay.

OPC _____
RCA _____
SCR _____ 3. Section 364.183, Florida Statutes, provides an exemption from the disclosure

SGA _____ requirements of section 119.07, Florida Statutes, when disclosure of confidential business

SEC

OTH *comp records*

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information would “impair the competitive business of the provider of the information.” Disclosure of the MetroPCS’s confidential information would harm its competitive interests by placing details of its business operations in the public domain. Accordingly, the information should be exempt from the public disclosure requirements of section 119.07, Florida Statutes. Further, MetroPCS considers and treats this information as confidential and proprietary. A more specific description of the exhibit information is contained in Attachment A.

4. Appended hereto as Attachment B are two copies of the requested documents with the confidential classification redacted.

5. Appended hereto as Attachment C is a sealed envelope containing one copy of the document that MetroPCS claims is confidential and proprietary.

WHEREFORE, based on the foregoing, MetroPCS moves the Commission to enter an order declaring the information described above to be confidential, proprietary business information that is not subject to public disclosure.

s/ Vicki Gordon Kaufman

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing MetroPCS' First Request for Specified Confidential Classification was served via (*) hand delivery or first class United States mail this 16th day of February, 2006, to the following:

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s/Vicki Gordon Kaufman
Vicki Gordon Kaufman

ATTACHMENT A

DOCKET NOS. 050119-TP, 050125-TP

METRO PCS'

FIRST REQUEST FOR SPECIFIED CONFIDENTIAL CLASSIFICATION

Explanation of Proprietary Information

1. Ms. Bishop's rebuttal testimony contains **CONFIDENTIAL** information regarding MetroPCS market share and operating expenses. This information is related to MetroPCS's ongoing business affairs and operations and can be used by competitors to harm MetroPCS' competitive interests. Section 364.183, Florida Statutes, allows for an exemption from the disclosure requirements of section 119.07, Florida Statutes, when disclosure would "impair the competitive business of the provider of the information." Therefore, the information should be shielded from disclosure pursuant to section 119.07, Florida Statutes and section 24 (a), Art. 1 of the State Constitution.

Dena Bishop Rebuttal Testimony

<u>Page Nos.</u>	<u>Line(s)</u>	<u>Reason</u>
3	21	1
4	2, 3	1
5	3	1

ATTACHMENT B

DOCKET NOS. 050119-TP, 050125-TP

METRO PCS'

FIRST REQUEST FOR SPECIFIED CONFIDENTIAL CLASSIFICATION

**Two copies of the requested documents with
the confidential classification redacted**

1 **Q. Why is that?**

2 A. I would be surprised if any of those CLECs originate enough transit traffic to care about
3 BellSouth's transit rate, much less justify the cost of arbitrating or litigating the transit
4 rate.

5 **Q. Do you know how much transit traffic each of those CLECs originates in Florida?**

6 A. As of the date that my prefiled testimony was prepared, I do not. MetroPCS has asked
7 BellSouth for this information in discovery, but BellSouth's response was not due before
8 my rebuttal testimony needed to be filed. BellSouth's response to Item 1 of the Small
9 LECs' First Interrogatories, however, indicates that, *at most*, eighteen of those CLECs
10 (two of which are BellSouth affiliates) originated *any* transit traffic that was transited by
11 BellSouth to Florida independent incumbent local exchange carriers ("ILECs") in
12 November 2005. The response also indicates that about twenty-one CLECs who
13 BellSouth does *not* claim have agreed to such transit rates originated transit traffic to
14 Florida independent ILECs in November.

15 **Q. Do you have any other information that indicates how much transit traffic CLECs**
16 **originate?**

17 A. Yes. In the Georgia Public Service Commission docket concerning BellSouth's transit
18 service BellSouth has been filing reports showing the volume of transit traffic that it
19 switches and transports between CLECs and independent ILECs in Georgia. In
20 November, the last month for which BellSouth had filed information when my testimony
21 was prepared, MetroPCS originated (1) nearly [REDACTED] as much traffic that

1 BellSouth transited to independent ILECs in Georgia as BellSouth reported for all
2 Georgia CLECs combined, (2) more than ██████████ of the Georgia CLECs combined,
3 (3) more than ██████ as much as any CLEC but one, and (4) ██████████ as much as that
4 one. This clearly indicates that most CLECs originate far less transit traffic than
5 MetroPCS does. The fact that over 200 CLECs may have agreed to a transit rate does not
6 prove anything concerning the reasonableness of that rate when most of them either
7 originate no transit traffic at all or originate only trivial amounts of transit traffic
8 compared to MetroPCS.

9 **Q. But doesn't Mr. McCallen indicate in Exhibit KRM-3 that 17 CMRS carriers have**
10 **also agreed to comparable transit rates?**

11 A. Yes, he does, but that list is not persuasive, either. First, of the CMRS carriers listed by
12 Mr. McCallen, MetroPCS, Verizon Wireless, Sprint Nextel and T-Mobile are all parties
13 in this docket, and all of those but Verizon directly oppose BellSouth's proposed transit
14 rate. Although Verizon Wireless is not directly challenging BellSouth's proposed transit
15 rate, it is controlled by Verizon Communications, which has the same interest as
16 BellSouth in being permitted to charge excessive transit rates. Cingular is BellSouth's
17 affiliated CMRS carrier and cannot be expected to challenge BellSouth's proposed rates.
18 AT&T Wireless, Nextel, NPCR, Tritel and GTE Wireless are all now part of Verizon,
19 Sprint Nextel or Cingular, companies that I have already discussed above. Although
20 AllTel Communications is not a party to this docket, its ILEC affiliate is, and the Georgia
21 AllTel ILECs are challenging a proposed Georgia transit rate of \$0.025 per MOU.¹

¹ See Georgia Public Service Commission Docket No. 16772-U.

1 Commnet of Florida is a very small, wholesale-only CMRS carrier. Its financial
2 statements indicate that its total *national* annual operating expenses (including
3 depreciation and amortization) are less than ██████████ MetroPCS's annual Florida transit
4 bill from BellSouth.² According to their web sites, Cricket Communications³ and United
5 States Cellular⁴ have no operations in Florida. Cellular South's web site⁵ indicates that its
6 Florida operations are limited to a small portion of the western panhandle. The FCC's
7 online database⁶ does not identify any CMRS carrier with the word "action" in its name.

8 The only Florida CMRS carriers that are not challenging BellSouth's proposed transit
9 rate in Florida, Georgia or both, either directly or through an affiliate, are Verizon,
10 Cingular, Commnet and Cellular South. The fact that Verizon and Cingular, whose parent
11 companies have the same interest as BellSouth in being permitted to charge excessive
12 transit rates, and two very small CMRS carriers are not challenging BellSouth's proposed
13 rate hardly indicates the wireless industry's endorsement of BellSouth's transit rate.

14 **Q. Mr. McCallen states that "BellSouth is not required to provide a transit function"**
15 **(page 6, lines 7-8 and page 17, line 4) and that the availability of transit service is the**
16 **result of "BellSouth's business decision" (page 7, line 8). What is your response?**

17 **A.** I disagree. The intended implication seems to be that BellSouth is free to price transit
18 service as it pleases or withdraw it altogether. Although I am not a lawyer, I believe that

² See <http://www.sec.gov/Archives/edgar/data/879585/000119312505225621/dex994/htm> at page 5.

³ See <https://www.mycricket.com/stores/>.

⁴ See http://www.uscc.com/uscellular/SilverStream/Pages/r_city.html?call=2.

⁵ See http://www.cellularsouth.com/plans/coverage_fl.jsp.

⁶ See <http://gullfoss2.fcc.gov/cib/form499/499a.cfm>.

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⁶ See <http://gullfoss2.fcc.gov/cib/form499/499a.cfm>.