

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by Union County Board ) DOCKET NO. 881547-TL  
of County Commissioners for Extended ) ORDER NO. 21158  
Area Service Between Union County and ) ISSUED: 5-3-89  
Gainesville Exchange. )  
\_\_\_\_\_ )

ORDER REGARDING CONFIDENTIALITY

Pursuant to Rule 25-22.006(4), Florida Administrative Code, ALLTEL Florida, Inc. (ALLTEL) has requested specified confidential treatment for certain filings in the above docket before the Florida Public Service Commission.

In Order No. 20511, ALLTEL was required by this Commission to file a traffic study summarizing the calling patterns experienced over the route for which extended area service (EAS) is requested herein. On February 24, 1989, ALLTEL filed the required traffic study, along with a letter requesting confidential status. The request stated that service over the route in question is subject to competition and the information contained in the study is "of value to the carrier". For this reason, it is claimed, disclosure of the study would adversely affect the carrier.

In response to Commission Staff concerns over the allegations in the Request, ALLTEL edited the study to remove the data that it maintained was proprietary, refiled the edited study and withdrew its request as to same. The Request as to the extracted data was retained. In its amended Request ALLTEL stated that the extracted data relates to traffic over interLATA routes. ALLTEL maintains that it acts as custodian for the interexchange carrier (IXC) responsible for the interLATA traffic and is bound by a continuing obligation to treat this traffic data as proprietary as between ALLTEL, the IXC and third parties.

Pursuant to Section 119.07 (1), Florida Statutes, all company data provided to this Commission shall become public record unless specifically exempted. An exemption broadly defined in Section 119.07(3) is that of confidential information. Section 364.183(3), Florida Statutes, generally defines proprietary confidential business information as, among other things:

trade secrets; and information concerning bids or other contractual data, the disclosure of which would impair the efforts of the utility to contract for services on favorable terms.

Initially, it is notable that ALLTEL has not alleged that disclosure of this study would impair its efforts to contract for services on favorable terms. Moreover, the data requested in Order No. 20511 would not generally be of a confidential nature. Based upon an examination of the document identified in the above-referenced Request for Specified Confidential Treatment, I find that said document does not contain information which, if released, could affect the ability of ALLTEL to contract for and provide service on favorable terms. Nor do I find that the data is so unique as to be considered a trade secret. Thus, the Request should be denied since the document holds no confidential information as to ALLTEL.

DOCUMENT NUMBER-DATE

04410 MAY-3 1989

FPSC-RECORDS/REPORTING

As to the IXC, in this case AT&T Communications of the Southern States, ALLTEL may not maintain a Request for Confidential Treatment in its behalf. Once notice is given by ALLTEL that data will be filed with the Commission, the IXC as owner or "source" of this data, must file the request to have it exempted from the public records laws. See Rules 25-22.006(1)(i) and 25-22.006(4)(c), Florida Administrative Code.

This is a tentative ruling regarding the confidential nature of information filed with the Florida Public Service Commission in the above dockets. In the absence of a protest to this Order, as provided for in Rule 25-22.006(2)(f), Florida Administrative Code, this ruling will serve as a final determination with respect to the confidentiality of the matters in issue.

In consideration of the above, it is

ORDERED that the Request by ALLTEL Florida, Inc. for Specified Confidential Treatment, as amended, is hereby denied for the filing identified herein. It is further

ORDERED that if a protest is filed within fourteen (14) days of the date of this Order, it will be resolved by the appropriate Commission panel pursuant to Rule 25-22.006(3)(d), Florida Administrative Code.

By ORDER of Commissioner John T. Herndon, as Prehearing Officer, this 3rd day of MAY, 1989.

John T. Herndon  
JOHN T. HERNDON, Commissioner  
and Prehearing Officer

( S E A L )

ELJ

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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 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 sewer utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, 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.