

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Review of )  
Rates and Charges Paid by PATS )  
Providers to LECs )  
\_\_\_\_\_ )

DOCKET NO: 860723-TP  
ORDER NO: 24531  
ISSUED: 05/14/91

ORDER GRANTING IN PART AND DENYING IN PART  
REQUESTS FOR SPECIFIED CONFIDENTIAL CLASSIFICATION  
OF DOCUMENTS NUMBERS 6830-90, 7523-90, 6511-90, 9017-90, 7002-90,  
7314-90, 7315-90, 6014-90, 6855-90, 5713-90, 5972-90

This Order addresses unopposed requests for Specified Confidential Classification by United Telephone Company of Florida (United), Southern Bell Telephone and Telegraph Company (Southern Bell), and the Florida Pay Telephone Association (FPTA) (generically, the party or parties).

There is a presumption in the law of the State of Florida 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." In the instant matter, the value of the examination and utilization by all parties of the information contained in these documents must be weighed against the legitimate concerns of the parties regarding the disclosure of business information that they consider proprietary. It is this Commission's view that the burden to be met by one requesting specified confidential classification of documents submitted during a proceeding before us is very high.

Pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, it is the party's burden to show that any material submitted to this Commission is qualified for specified confidential classification. Rule 25-22.006 provides that the Company may fulfill its burden by demonstrating that the documents fall into one of the statutory examples set out in Section 364.183, Florida Statutes, or by demonstrating that the information is proprietary confidential information, the disclosure of which will cause the party or its ratepayers harm.

SOUTHERN BELL'S REQUESTS

Documents Nos. 6830-90, 5972-90

On July 30, 1990, Southern Bell filed its Request for Confidential Treatment Regarding Responses (Request) to our staff's

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interrogatories and the staff's request for the work papers which support the exhibits of Southern Bell's witness, Jerry L. Dick. The material associated with the Request was given Document No. 6830-90 by this Commission. Previously, on July 6, 1990, Southern Bell filed its Notice of Intent to Request Confidential Treatment (Notice) of the same information; the material associated with the Notice was assigned Document No. 5972-90. Thus, resolving the issue for one of these documents resolves it for both documents. In support of its request Southern Bell asserts the following:

On May 18, 1990, our staff served its First Set of Interrogatories on Southern Bell. Southern Bell answered the interrogatories on June 22, 1990, but objected to Items Nos. 14, 15, 22, and 23 on the basis that the responses included proprietary confidential business information. In order to prepare for the hearings, our staff requested that Southern Bell provide the proprietary information. Further, the staff requested the supporting work papers to Southern Bell's witness, Jerry L. Dick's Exhibits Nos. 1-5. Southern Bell asserts that it promptly provided said information and filed the appropriate Notice of Intent to Request Confidential Treatment. Southern Bell does not object to providing the information to the Commission, rather it objects to the competitive information being disclosed publicly.

Southern Bell asserts generally with respect to each item in this document that the material for which confidential classification is sought is intended to be and is treated by Southern Bell as private and has not been disclosed except pursuant to agreement to maintain confidentiality.

#### Interrogatory 14

Southern Bell requests that the response to Interrogatory 14, lines 1-14 be treated as confidential. Southern Bell argues that lines 1-14 list the interexchange carriers ("IXC") and the percent of public payphones in Southern Bell's Florida territory presubscribed to each IXC and that Section 119.07(3)(w), Florida Statutes, exempts customer specific information from the Public Records Act. Southern Bell asserts that although IXCs are not generally referred to as subscribers, the IXC names and percentage of Southern Bell payphones presubscribed to each of the IXCs are analogous to subscriber information and therefore should be exempted. Southern Bell also contends that in the various billing and collection agreements between Southern Bell and the

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interexchange carriers, such information is treated as proprietary and confidential and that the interexchange carriers and Southern Bell have agreed to not disclose such traffic information.

#### Interrogatory 15

Southern Bell requests confidential treatment of information in Interrogatory Response 15, lines 1-6 which describes the total commissions paid per month to location providers for 1987, 1988 and 1989 and the average commissions paid per telephone for the same years in Florida. Southern Bell argues that section 364.183, Florida Statutes, provides that proprietary confidential business information includes "information concerning bids or other contractual data, the disclosure of which would impair the efforts of the company to contract for services on favorable terms." If this information were disclosed, Southern Bell argues that it would be placed at a competitive disadvantage with respect to non-LEC pay telephone providers because those competitors would be able to use the information in negotiating more favorable and competitive commission payments for location providers. Moreover, Southern Bell contends that if the commission payments were disclosed, competitors would know portions of Southern Bell's competitive costs thus placing Southern Bell at a severe competitive disadvantage.

#### Interrogatories 22 and 23

Southern Bell requests confidential treatment for the information located in Interrogatory Response 22, lines 1-2, 4, 6-8, and Interrogatory Response 23, lines 1-2, 4, 6-9. Southern Bell asserts that this information contains data that competitors could use to the detriment of Southern Bell. Southern Bell argues that Interrogatory Response 22, lines 1 and 2, and Interrogatory Response 23, lines 1 and 2, contain the average cost per telephone and total cost for semi-public and public pay telephone station equipment and enclosures. Southern Bell argues that section 364.183, Florida Statutes, provides that proprietary confidential business information includes "information concerning bids or other contractual data, the disclosure of which would impair the efforts of the company to contract for services on favorable terms." Southern Bell asserts that the information described above reveals Southern Bell's various costs for public telephone equipment and enclosures and that if this information were disclosed it would

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harm Southern Bell's ability to contract for the purchase and placement of equipment and enclosures at the lowest rates.

Southern Bell requests confidential treatment of information in Interrogatory Response 23, line 6, which contains the average compensation per year and the total compensation per year paid to location providers in Florida. Southern Bell argues that section 364.183, Florida Statutes, provides that proprietary confidential business information includes "information concerning bids or other contractual data, the disclosure of which would impair the efforts of the company to contract for services on favorable terms." Southern Bell contends that if this information is disclosed, Southern Bell would be unable to negotiate the best possible location provider compensation consistent with cost effective service and competitive rates. In addition, Southern Bell asserts that if the information were disclosed, non-LEC pay telephone competitors would have an advantage over Southern Bell when negotiating with location providers to gain pay telephone locations. Southern Bell argues that the information concerns bids, and that the disclosure of the same would impair its efforts to contract for pay telephone locations, and that therefore, the information should be treated as proprietary confidential business information.

Southern Bell requests confidential treatment of the average costs per telephone per year and total costs per year for collections and counting for semi-public and public telephones set forth on Interrogatory Response 22, line 6 and Interrogatory Response 23, line 7. Southern Bell asserts that if its collection and counting costs are disclosed, its ability to negotiate favorable agreements for its services will be impaired and that the disclosure of its costs and a portion of its costs of a competitive service would harm the Company by making such information available to its competitors. Southern Bell argues that its competitors will be able to ascertain the cost information and contract more favorably for locations.

Southern Bell requests confidential treatment of the semi-public and public telephone average cost per telephone and total costs per year for line terminations, minutes of use, and operator surcharge functions as set forth on Interrogatory Response 22, lines 4, 7 and 8 and Interrogatory Response 23, line 4, 8 and 9. Southern Bell asserts that if its costs per minutes of use and line terminations for its public and semi-public telephone service were

disclosed that competitors would be able to determine Southern Bell's payphone traffic and competitive service costs which gives its competitors commercially valuable information not otherwise available in the market. Southern Bell contends that if the operator surcharge function costs are disclosed, the competitive non-LEC pay telephone providers would be able to use the costs to gain a competitive advantage over Southern Bell. Southern Bell argues that these competitors are providing "operator in a box" which is directly competitive with Southern Bell's operator services. Southern Bell concludes that knowledge of its costs of competitive services would allow its competitors to contract more favorably for pay telephone locations to the detriment of Southern Bell.

#### Jerry L. Dick's Work papers

Southern Bell argues that the costs and revenues figures represented in Interrogatories 15, 22 and 23 are summary information from the cost study work papers of Southern Bell's witness in this proceeding, Jerry L. Dick. The cost study work papers were requested by our staff. Southern Bell requests confidential treatment of these cost and revenue figures and additional data developed to perform the cost studies. Southern Bell contends that the public disclosure of costs and revenues associated with its provision of public and semi-public telephone service in the detail set forth in the work papers would provide an advantage to Southern Bell's competition in that the costing information, assumptions and detail set forth in the work papers goes to the very heart of Southern Bell's provision of competitive pay telephone service. Southern Bell concludes that disclosure of this information as well as the data developed to perform the cost studies would reveal Southern Bell's business plans and assumptions in the evaluation of the market for pay telephone service. Southern Bell concludes that disclosure would severely impede its ability to bid for contracts for the provision of pay telephone service to the public.

#### Conclusion

With a few exceptions we accept Southern Bell's arguments concerning the material in question. The request for confidential treatment of certain portions of responses to Interrogatories Numbers 14, 15, 22 and 23 of Staff's First Set of Interrogatories

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and certain portions of Jerry Dick's Work papers, shall be granted or denied as set forth below.

The following line numbers shall be held confidential:

Response to Staff's Interrogatory 14 (IXC presubscription)

Figures in lines 1-14

These figures are the percentages of pay telephones which are presubscribed to various IXC's. This is customer specific information and is generally treated as proprietary and confidential in IXC - Southern Bell contracts. This information shall be held confidential.

Response to Staff's Interrogatory 15 (commission payments)

Figures in lines 1-6

These figures are the total monthly commission payments and average monthly commission payments per pay telephone. Disclosure of this information could harm Southern Bell's competitive position vis-a-vis other pay telephone providers. This data is essentially contractual data which shall be held confidential.

Response to Staff's Interrogatory 22 (costs, semi-pub)

Figures in lines 1-2, 6-8

These figures are cost figures for semi-public telephones. Disclosure of this information could adversely affect Southern Bell's ability to contract with equipment vendors and the Company's ability to compete with other pay telephone providers. Thus, it shall be held confidential.

Response to Staff's Interrogatory 23 (costs, public)

Figures in lines 1-2, 6-9

These figures are cost figures for semi-public telephones. Disclosure of this information could adversely affect Southern Bell's ability to contract with equipment vendors and the Company's ability to compete with other pay telephone providers. Thus, it shall be held confidential.

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Jerry Dick's Work papers

We generally accept Southern Bell's arguments regarding the Jerry Dick Work papers. Cost and revenue figures which are not otherwise known publicly shall be held confidential. However, some information for which Southern Bell has requested confidentiality is either available elsewhere or is of little value to any competitors. In particular, tariffed rates and conversion factors shall not be held confidential. Each item shall be handled as follows.

Specific Costs per Station:

Work paper 1, lines 8-20

These figures are total annual costs for pay telephone service from the 1987 Exchange Cost Study. They shall be held confidential.

Work paper 2, lines 17-18, 22-25

These figures are annual costs per station. They shall be held confidential.

Work paper 3, lines 21-22, 26-29

These figures are annual costs per station. They shall be held confidential.

Work paper 30, pg. 1 of 3, lines 13-17, 24-25, 27-42

These figures are annual compensation costs per station and data relating to collections and counting costs per station. They shall be held confidential.

Work paper 30, pg. 2 of 3, lines 3-12, 18-29

These figures relate to enclosure costs. They shall be held confidential.

Work paper 30, pg. 3 of 3:

lines 6, columns B and C

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This figure is the number of annual local calls per station. This figure shall be held confidential because its release could give competitors an undue advantage in formulating competitive strategies.

lines 8-14

These figures relate to the annual local minutes of use and local costs per station. They shall be held confidential.

lines 17-21

These figures relate to the annual intraLATA minutes of use and intraLATA costs per station. They shall be held confidential.

lines 29-36

These figures relate to the annual interLATA minutes of use and interLATA costs per station. They shall be held confidential.

lines 39-41, 43

These figures relate to the annual number of operator-assisted calls and operator-assisted costs per station. They shall be held confidential.

Specific Revenues per Station:

Work paper 2, lines 5-6

These figures are annual revenues per station. They shall be held confidential.

Work paper 3, lines 5-10

These figures are annual revenues per station. They shall be held confidential.

Work paper 20, pg. 1 of 4, lines 1-20

These figures are annual revenues per station. They shall be held confidential.



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Work paper 20, pg. 2 of 4, lines 5-11

These figures are the calculations which divide the number of annual local calls and local revenues into sent paid and non-sent paid calls and revenues. They shall be held confidential.

Reconciliation of Data:

Work paper 40, lines 4-13

These figures show the percentage breakdown of enclosure types in use by the Company. Disclosure of this information could give competitors knowledge of Southern Bell's costs and marketing strategies. It shall be held confidential.

Work paper 50, lines 2-3, 15-17, 21, 24

These figures are the minutes of use for interLATA calls. These figures shall be held confidential because their release could give competitors an undue advantage in formulating competitive strategies.

Work paper 60, lines 3-7, 11-13, 16, 19, 22, 27-29, 32, 36, 37

These figures relate to revenues from pay telephones and include a reconciliation between two types of revenue reports. This revenue information shall be held confidential.

The following line numbers shall not be held confidential as described below:

Response to Staff's Interrogatory 22 (costs, semi-public):

Figures in line 4

This information (cost of line termination) is revealed in Jerry Dick's Work paper 3, line 24 and therefore shall not be held confidential.

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Response to Staff's Interrogatory 23 (costs, public):

Figures in line 4

This figure (cost of line termination) is revealed in Jerry Dick's Work paper 3, line 24 and therefore shall not be held confidential.

Jerry Dick's Work papers

Specific Costs per Station:

Work paper 2, line 20

This figure (cost of line termination) is revealed in Jerry Dick's Work paper 3, line 24 and therefore shall not be held confidential.

Work paper 30, pg. 1 of 3:

line 26

This figure is a loaded labor rate which is widely known and therefore shall not be held confidential.

Work paper 30, pg. 3 of 3:

line 6, column A

This figure was revealed at the hearing and therefore shall not be held confidential.

line 7

This figure (average holding time for a local call) is widely known and therefore shall not be held confidential.

lines 15-16

These figures (intraLATA cost per call set-up, and cost per minute of use) are analogous to local costs which are widely known (from the LIUC study). Although intraLATA competition will be allowed after 12/13/91, we find that no harm will come from the disclosure of these figures. In addition, the Company did not

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specifically justify keeping these figures confidential. Therefore, this information shall not be held confidential.

lines 22-28

These figures are Southern Bell's access costs and shall not be held confidential because access is a monopoly service. In addition we find that these figures may have been revealed elsewhere. Therefore, this information shall not be held confidential.

line 42

This figure (operator costs per call) applies to not only pay telephone operator-assisted calls, but all operator-assisted calls. We find that this figure is available, non-confidentially, from other sources. United Telephone Company revealed the operator cost per call, and we see no reason why Southern Bell would be harmed by the disclosure of this figure, when other companies disclose their analogous costs. Therefore, this information shall not be held confidential.

Specific Revenues per Station:

Work paper 2, lines 7-10

These figures are widely known and therefore shall not be held confidential.

Work paper 3, lines 11-14

These figures are widely known and therefore shall not be held confidential.

Work paper 20, pg. 1 of 4

lines 25-36

These figures are widely known and therefore shall not be held confidential.

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Work paper 20, pg. 2 of 4

lines 12-34

These figures are all tariffed access rates and therefore shall not be held confidential.

Work paper 20, pg. 4 of 4

lines 1-8

These figures are all tariffed access rates and therefore shall not be held confidential.

Reconciliation of Data:

Work paper 40, lines 14-16

These figures (the number of stations in service) have been revealed in several other documents and therefore shall not be held confidential.

Work paper 50:

lines 4-7

These figures (interLATA conversation minutes per call, conversion factors, and a completion ratio) are either widely known, or of little value to any competitors. Therefore they shall not be held confidential.

lines 8-14

These figures (non-conversation time, operator work time, additional time for access, and a conversion factor) are either widely known, or of little value to any competitors. Therefore they shall not be held confidential.

lines 22-23

These figures are conversion factors which are either widely known, or of little value to any competitors. Therefore they shall not be held confidential.

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DOCUMENT NO. 7523-90

On August 20, 1990, Southern Bell filed its Request for Confidential Treatment for Late Filed Hearing Exhibit 23A. Southern Bell asserts that the material for which confidential classification is sought is intended to be, and is, treated by Southern Bell as private and has not been disclosed except pursuant to an agreement to maintain its confidentiality.

Southern Bell argues that during the hearings in this docket which took place on August 1-3, 1990, Southern Bell's witness Jerry Dick was asked to provide Late Filed Hearing Exhibit No. 23A. This exhibit is an interstate and intrastate separated cost analysis of Analysis 3 which is summarized in Mr. Dick's Prefiled Exhibit 3 and is, in essence, a calculation on a separated basis of the work papers associated with Mr. Dick's Exhibit 3.

Southern Bell requests confidential treatment of these cost and revenue figures delineated by the page and line numbers set forth below for the reasons set forth below. Southern Bell argues generally that the information contained in Late Filed Exhibit No. 23A has been maintained and is considered proprietary by Southern Bell. Southern Bell does not object to providing the information to the Commission, rather it objects to the competitive information being disclosed publicly.

Southern Bell specifically requests confidential treatment of its average annual revenue per station for semi-public and public telephones as delineated on page 1, lines 5-10; page 2, lines 5-10; and page 3, lines 5-10. Southern Bell asserts that public disclosure of its revenues associated with provision of public and semi-public telephone service will provide an advantage to Southern Bell's competition in that this information goes to the very heart of Southern Bell's participation in the competitive pay telephone market. Southern Bell contends that this information, in conjunction with other information available to Southern Bell's competitors, would permit those competitors to target their marketing efforts to Southern Bell public telephone location providers.

Southern Bell also requests confidential treatment of its average annual costs per station for its semi-public and public telephones as delineated on page 1, lines 13-14, 16, 18-21; page 2, lines 13-14, 16, 18-20; and page 3, lines 17-18, 20, 22-24.

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Southern Bell contends that public disclosure of this cost information goes to the very heart of Southern Bell's competition in the pay telephone market and that this information, in conjunction with other information available to Southern Bell's competitors, would permit those competitors to target their marketing efforts to Southern Bell public telephone location providers. Southern Bell asserts that disclosure would reveal Southern Bell's business plans and assumptions in its evaluation of the pay telephone market and will severely impede its ability to bid for contracts for the provision of pay telephone service to the public.

Conclusion

The request for confidential treatment of certain portions of Late Filed Hearing Exhibit 23A shall be granted or denied as set forth below. The following shall be held to be confidential:

Specific Revenues per Station:

Page 1, lines 5-10  
Page 2, lines 5-10  
Page 3, lines 5-10

These figures are annual revenues per station for public coin, public coinless, and semi-public pay telephones respectively. These same figures were contained in Document 6830-90 (Jerry Dick's Work papers) and held confidential in this Order supra. The only difference between the figures in this document and the document discussed supra is that the figures in the instant document show additional calculations in order to separate intrastate costs and revenues from interstate costs and revenues. The information, with additional calculations, shall be held confidential.

Specific Costs per Station:

Page 1, lines 13-14  
Page 1, lines 18-21  
  
Page 2, lines 13-14  
Page 2, lines 18-20  
  
Page 3, lines 17-18  
Page 3, lines 23-24

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These figures are annual costs per station for public coin, public coinless, and semi-public pay telephones respectively. These same figures were contained in Document 6830-90 (Jerry Dick's Work papers) and held confidential supra. The information shall be held confidential in this context as well.

The following line numbers shall not be held confidential:

Page 1, line 16  
Page 2, line 16  
Page 3, line 20

These figures (cost of line termination) were revealed in Work paper 3, line 24 of Document 6830-90 and therefore shall not be held confidential.

#### F.P.T.A.'S REQUESTS

Documents Nos. 5713-90, 6511-90, 9017-90 (supplement to 6511-90)

On July 19, 1990, FPTA filed its Request for Specified Confidential Classification (Request) for portions of its responses to discovery requests in this docket. Previously, on June 27, 1990, FPTA had filed a Notice of Intent to Request Confidential Treatment (Notice) of this material. This information was given Document No. 5713-90 under the Notice, Document No. 6511-90 under the Request, and the Supplement to Document No. 6511-90 was assigned Document No. 9017-90. FPTA describes this information as: Trade Secrets; data adversely affecting FPTA's ability to bargain and contract with Premise owners; information restricting FPTA's ability to bargain and contract with IXC's for operator services; facts limiting FPTA's ability to bargain and contract with equipment and services vendors; information adversely impacting FPTA's competitive posture vis a vis other pay telephone providers such as revenue and cost data; LEC and IXC service bills; AOS and IXC business relationships; critical contractual data such as commission plans, telephone bills, traffic data, traffic information, commission agreements, phone placement criteria, AOS/IXC business relationships, sample premise owner contracts, phone bill analysis, complaints.

FPTA asserts that because of the dynamic nature of pay telephone service competition in the State of Florida the material

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will require confidential classification on an ongoing basis for not less than 3 years. FPTA requests that the designated material retain confidential classification for the entire period held by this Commission, and be returned to FPTA, through its counsel, after we no longer require the material. FPTA argues that there is no compelling need or legitimate interest served by disclosure of the data.

FPTA asserts that, pursuant to Florida Statutes section 364.183 and Florida Administrative Code Rule 25-22.006, the Confidential Response should be deemed confidential material by this Commission, since the information is a trade secret and the disclosure of such information would seriously impair the efforts of the FPTA's member companies to contract for services on favorable terms.

#### Trade Secret Information

FPTA asserts that Florida Statutes section 364.183(3)(a) provides that proprietary confidential information subject to exemption from Florida Statutes section 119.01(1) includes trade secrets and that the items identified above are trade secrets, and that granting confidential classification to the material would be consistent with other Commission decisions for identical or similar information.

FPTA asserts that disclosure of this information would also be of adverse economic impact to FPTA's competitive posture vis a vis other pay telephone providers, which include other FPTA members, pay telephone providers who are not FPTA members, and the local exchanges companies (LECs). FPTA argues that its members have taken reasonable steps to assure that the material is not known or readily ascertainable by other persons who might otherwise derive economic value from its disclosure or use. FPTA concludes that public knowledge of the material could affect each FPTA member's ability to bid and contract for services and to otherwise provide services to pay telephone end users.

FPTA asserts that cost and revenue information relating to competitive service offerings has previously been granted confidential classification and that we have also found data relating to contractual relationships with vendors of services to be confidential. Finally, FPTA argues that this Commission has granted confidential classification to telephone billing



information, traffic data, and calling patterns. FPTA concludes that together, these facts and circumstances demonstrate that the requested material is sensitive, commercially valuable information, and important to the success of each company's business, and that the disclosure of such information would provide a competitive advantage not otherwise available in the marketplace. FPTA additionally concludes that public disclosure in these circumstances would harm each FPTA member's substantial interests, and that the information constitutes trade secrets meriting exclusion from the public record under Florida Statutes section 364.183(3)(a).

#### Critical Contractual Data

FPTA asserts that its members are engaged in the provision of interstate and intrastate pay telephone services and that public disclosure of commission plans, specific telephone bills, traffic data, and phone placement criteria would impair the company's ability to contract with premise owners and IXCs to obtain locations and services at favorable terms and conditions. FPTA argues that this Commission has expressly recognized the need and importance of maintaining such information as confidential. Accordingly, FPTA asserts that public disclosure of commission plans, specific telephone bills, traffic data, and phone placement criteria would impair each FPTA member's ability to contract with premise owners and IXCs to obtain necessary equipment and services.

#### Conclusion

Document 6511-90, filed with the Commission by the FPTA contains numerous items for which confidentiality has been requested. Specifically, the items include the responses to Interrogatories Numbers 12b, 12c, 12d, 12e, 12f, 12g, 15a, 15b, 15c, 15d, 16, 17, 18, 19, and 23 of Southern Bell's First Set of Interrogatories. Also included is the response to GTEFL Interrogatory #21 and sample premise owner contracts. Document 9017-90 contains the same responses to Interrogatories Numbers 12b, 12c, 12d, 12e, 12f, 12g and 18 of Southern Bell's Interrogatories. The two documents otherwise differ only in that Document 9017-90 contains a supplemental line by line justification for the confidentiality request, which was not included in the earlier document.

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We find that the following information relates to competitive interests, the disclosure of which would impair the competitive business of the providers of the information. Therefore, this material shall be held confidential:

Response to 12b, 12c, 12d, 12e, 12f, 12g, 18:

- pg. 1, lines 12, 17, 20-23, 26, 28, 30-31, 33 -  
Revenue and cost data
- pg. 1, lines 13, 23 -  
Facts limiting FPTA's ability to bargain and contract  
with vendors
- pg. 1, lines 14, 19 -  
LEC and IXC service bills  
Traffic data (line 14)
- pg. 1, line 15 -  
Commission plans
- pg. 1, lines 16, 20 -  
Data adversely affecting FPTA's ability to bargain and  
contract with premise owners
- pg. 1, line 22 -  
Telephone bills
- pg. 2, lines 11, 13, 18-22, 23, 25-26, 28, 31-34, 36-38 -  
Revenue and cost data
- pg. 2, lines 12, 14 -  
AOS and IXC relationships
- pg. 2, line 17, 22 -  
Call traffic patterns
- pg. 2, lines 35, 37, 39 -  
Information restricting FPTA's ability to bargain and  
contract with IXC's for operator services
- pg. 3, lines 2, 3 -  
Revenue and cost data

- pg. 4, lines 7, 8, 10, 11 -  
Revenue and cost data
- pg. 6, lines 6,7 -  
Traffic data
- pg. 6, lines 9, 17-18, 20, 24 -  
Revenue and cost data  
Facts limiting FPTA's ability to bargain and contract  
with vendors (line 9)
- pg. 7, lines 8-31 -  
Revenue and cost data
- pg. 8, lines 9, 13-21, 23, 26, 29-45 -  
Revenue and cost data
- pg. 8, lines 10, 12 -  
AOS and IXC relationships  
Information restricting FPTA's ability to bargain and  
contract with IXC's for operator services
- pg. 8, lines 20, 24, 25 -  
Facts limiting FPTA's ability to bargain and contract  
with vendors
- pg. 8, line 22 -  
Data adversely affecting FPTA's ability to bargain and  
contract with premise owners Commission plans
- pg. 9, lines 7-24 -  
Revenue and cost data
- pg. 10, lines 9, 14-24, 26, 29, 32-45 -  
Revenue and cost data
- pg. 10, lines 10, 12, 13 -  
AOS and IXC relationships  
Information restricting FPTA's ability to bargain and  
contract with IXC's for operator services
- pg. 10, lines 23, 27, 28 -  
Facts limiting FPTA's ability to bargain and contract  
with vendors

- pg. 10, line 25 -  
Commission plans
- pg. 11, lines 7-32 -  
Revenue and cost data
- pg. 12, lines 6-21, 23-31 -  
Revenue and cost data  
Telephone bills
- pg. 13, lines 6-19, 21-28 -  
Revenue and cost data  
Telephone bills
- pg. 14, lines 3-29 -  
Revenue and cost data
- pg. 14, lines 9, 10, 19 -  
Data adversely affecting FPTA's ability to bargain and  
contract with premise owners
- pg. 14, lines 10, 20 -  
Information restricting FPTA's ability to bargain and  
contract with IXC's for operator services
- pg. 15, line 4 -  
Data adversely affecting FPTA's ability to bargain and  
contract with premise owners Commission plans
- pg. 15, lines 5, 6 -  
Facts limiting FPTA's ability to bargain and contract  
with vendors
- pg. 15, lines 5-11, 13, 14, 17-21 -  
Revenue and cost data
- pg. 16, lines 3-16 -  
Revenue and cost data  
Call traffic patterns
- pg. 17, lines 5-27 -  
Revenue and cost data  
Facts limiting FPTA's ability to bargain and contract  
with vendors (line 14)

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- pg. 18, lines 5-21 -  
Revenue and cost data
- pg. 19, lines 4-6, 9-11, 14, 16, 18-41 -  
Revenue and cost data
- pg. 19, line 6 -  
AOS and IXC relationships
- pg. 19, line 13 -  
LEC and IXC service bills
- pg. 19, lines 16 -  
Information restricting FPTA's ability to bargain and  
contract with IXC's for operator services
- pg. 19, line 17 -  
Data adversely affecting FPTA's ability to bargain  
and contract with premise owners Commission plans
- pg. 20, lines 4-18 -  
Revenue and cost data
- pg. 21, lines 3-6, 14-16, 18, 23-24, 29-31, 34-35, 39, 41 -  
Revenue and cost data
- pg. 21, lines 44, 45 -  
Revenue and cost data
- pg. 21, lines 12, 13 -  
Commission plans
- pg. 22, lines 2, 6, 8, 16 -  
Revenue and cost data
- pg. 23, lines 7, 10, 13, 18, 27, 33 -  
Revenue and cost data
- pg. 24, lines 5, 14 -  
Revenue and cost data
- pg. 25, lines 3, 4, 6, 16, 21 -  
Revenue and cost data

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- pg. 26, lines 3-5, 12, 13, 19, 20, 22, 24-26, 29, 32, 34, 37 -  
Revenue and cost data
- pg. 26, lines 38, 48, 52, 58 -  
Revenue and cost data
- pg. 27, line 6 -  
Data adversely affecting FPTA's ability to bargain  
and contract with premise owners Commission plans
- pg. 27, lines 7-25 -  
Revenue and cost data
- pg. 28, lines 3-6, 13, 14, 17, 19-21, 23, 24, 29-31, 34-39 -  
Revenue and cost data
- pg. 28, lines 41, 44, 45 -  
Revenue and cost data
- pg. 29, lines 3-17, 19, 20 -  
Revenue and cost data
- pg. 29, line 18 -  
Data adversely affecting FPTA's ability to bargain  
and contract with premise owners  
Commission plans
- pg. 30, lines 1-21 -  
Revenue and cost data
- pg. 31, lines 7-10, 12-20, 23-26, 28-31, 33-36 -  
Revenue and cost data
- pg. 32, lines 8, 11, 12, 15-19 -  
Revenue and cost data
- pg. 32, line 10 -  
Commission plans
- pg. 33, lines 9-12, 14-33, 35-43 -  
Revenue and cost data

- pg. 33, line 13 -  
Data adversely affecting FPTA's ability to bargain  
and contract with premise owners Commission plans
- pg. 33, lines 34 -  
Facts limiting FPTA's ability to bargain and contract  
with vendors
- pg. 34, lines 6-8 -  
Revenue and cost data
- pg. 35, line 7-10, 12-20, 23-27, 30-32, 34-37 -  
Revenue and cost data  
Facts limiting FPTA's ability to bargain and contract  
with vendors (line 12)
- pg. 36, lines 8-11, 14-18 -  
Revenue and cost data  
Facts limiting FPTA's ability to bargain and contract  
with vendors (line 14)
- pg. 37, lines 8a-13, 15-17, 19-39 -  
Revenue and cost data  
Facts limiting FPTA's ability to bargain and contract  
with vendors (line 31)
- pg. 37, lines 14 -  
Commission plans
- pg. 38, lines 6-8 -  
Revenue and cost data
- pg. 39, lines 21-29, 31, 36, 37, 39 -  
Revenue and cost data
- pg. 39, lines 33-36 -  
AOS and IXC relationships  
Information restricting FPTA's ability to bargain and  
contract with IXC's for operator services

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Response to 15a, 15b, 15c, 15d, 17:

pg. 1, lines 34-37 (the number of calls) -  
pg. 3, lines 10, 12, 13, 14, 16, 18, 19 -  
pg. 5, lines 10, 11 -  
Traffic Information

Response to 16:

pg. 1, lines 8-13, 15, 21-27, 29, 32-37 -  
pg. 2, lines 1, 8, 10, 11, 13, 15, 17, 20, 24 -  
Commission plans

Response to 19:

pg. 1, lines 9-39 -  
Phone placement criteria  
pg. 2, lines 1-8

Response to 23:

pg. 1, lines 10, 17, 32, 35, 39 -  
pg. 2, lines 2, 3, 9, 11, 19, 20, 22, 23  
AOS/IXC business relationships

Sample Premise Owner Contracts:

pg. 1, lines 1, 3, 6 -  
pg. 2, lines 1-4, 6, 7 -  
pg. 3, lines 14, 18 -  
pg. 4, line 35 -  
pg. 5, line 4 -  
pg. 6, lines 18, 20 -  
pg. 7, lines 21, 34-37, 39, 41, 42, 44 -  
pg. 8, lines 27, 37, 39 -  
Contractual data

We find that the following information does not relate to competitive interests, the disclosure of which would impair the competitive business of the providers of the information. Therefore, the following items shall not be held confidential:



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Response to 15a, 15b, 15c, 15d, 17:

pg.1, lines 17-20, 25, 27, 29, 31, and 34-37 (call durations)  
pg.2, lines 1-4  
Call durations

Response to GTEFL 21:

pg. 1, lines 7, 9, 11, 12, 14 -  
pg. 2, lines 6, 8 -  
Complaint information

Documents Nos. 7002-90, 7314-90, 7315-90

At the hearing, FPTA requested confidential treatment for Document No 7002-90. Document 7002-90 consists of Hearing Exhibits, Nos. 17 and 22, which were entered into the record at the hearing in this docket. Document 7314-90 consists of Hearing Exhibit 17, and document 7315-90 consists of Hearing Exhibit 22. Documents 7314-90 and 7315-90 differ from document 7002-90 only in that the former include the support information necessary for a proper written analysis of the requests.

On August 13, 1990, Florida Pay Telephone Association, Inc. ("FPTA"), requested that we grant confidential classification and treatment to portions of Hearing Exhibits 17 and 22. In support of its motion, FPTA argues that on May 18, 1990, our staff served its First Set of Interrogatories on Southern Bell. Southern Bell objected to several of Staff's Interrogatories as requiring the disclosure of confidential and proprietary business information. Our staff later requested and obtained from Southern Bell the information originally objected to as well as supporting work papers to Jerry L. Dick's Analyses Nos. 1-5 from his direct testimony. On July 30, 1990, Southern Bell filed its Request for Confidential Treatment Regarding Responses to Staff's Interrogatories and Request for Mr. Dick's Work Papers. Mr. Dick's work papers containing the claimed confidential information have been admitted as Hearing Exhibit 21 (pages 5-19) at the August 1-3, 1990 hearing in this proceeding.

FPTA developed Hearing Exhibits 17 and 22. Some of the numbers appearing on these exhibits are the same figures appearing in Mr. Dick's work papers (Hearing Exhibit 21, pages 5-19). Other figures are computations formulated or derived from Mr. Dick's work

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papers. FPTA asserts that to the extent that the we grant confidential classification and treatment to Hearing Exhibit 21 (pages 5-19), confidential treatment to the numbers and computations contained in Hearing Exhibits 17 and 22 should also be granted pursuant to Florida Administrative Code Rule 25-22.006. FPTA argues that we have previously granted confidential treatment to documents constituting work papers and supporting documentation.

In making its request, FPTA takes no position on whether the numbers reproduced or derived from Mr. Dick's work papers appearing in Hearing Exhibits 17 and 22 in fact constitute confidential information subject to exemption from the Public Records Act under Florida Statutes section 364.183. Because FPTA obtained a copy of Mr. Dick's work papers pursuant to a protective agreement with Southern Bell and Southern Bell has pending with the Prehearing Officer a request for confidential classification of Mr. Dick's work papers, FPTA made this request to fulfill its obligations under the protective agreement.

FPTA asserts that the instant request was reviewed by counsel for Southern Bell, who had no objection to Hearing Exhibits 17 and 22 being ruled upon in conjunction with a ruling on Southern Bell's July 30, 1990 Request for Confidential Classification.

### Conclusion

While these requests for confidential treatment were made by the Florida Pay Telephone Association, the data to be considered, is entirely Southern Bell data, drawn from document 6830-90 (Jerry Dick's Work papers) which we addressed in this Order supra .

While not all of the information in Jerry Dick's work papers has been found to be confidential, we find that all of the information from the work papers relied upon by FPTA in Hearing Exhibits 17 and 22 has been found to be confidential supra in this Order. Therefore, we find that the information in Hearing Exhibits 17 and 22 for which FPTA's seeks confidential treatment shall be granted in its entirety.

The specific items for which we grant confidential treatment and the respective pages of Jerry Dick's Work papers from which they were drawn follow. Each figure is followed by the notation (WP L) which signifies the Work paper and line number from which the figure is drawn. Where the parentheses are enclosed by

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asterisks, \*(WP L)\*, the figures were calculated directly from the figure in the respective line number but are not simply a restatement of the figure in that line number.

Document 7002-90-Exhibit 17 and Document 7314-90:

The dollar figures in lines 2 (WP3 L5), 3 (WP3 L6), 7 (WP20 P1 L6), 10 \*(WP3 L7 & L8)\*, 11 \*(WP3 L26)\*, 18 (WP3 L21), 19 (WP3 L22), 23 (WP30 P1 L13), 24-26 \*(WP3 L26)\*, 27 (WP30 P1 L16), 28 (WP3 L26), 30 (WP3 L27), 37-38 \*(WP3 L29)\*, 39 (WP3 L29).

Document 7002-90-Exhibit 22 and Document 7315-90:

The dollar figures in column 1, lines 2 (WP3 L5), 3 (WP3 L6), 7 (WP20 P1 L8), 9-10 \*(WP3 L7 & L8)\*, 11 (WP3 L7 & L8), 13 (WP3 L9), 14 (WP3 L10), 18 (WP3 L21), 19 (WP3 L22), 23 (WP30 P1 L13), 24-26 \*(WP3 L26)\*, 27 (WP30 P1 L16), 28 (WP3 L26), 30 (WP3 L27), 31 (WP30 P3 L9), 32 (WP30 P1 L10), 33 (WP30 P3 L21), 33 (WP30 P3 L21), 34 (WP30 P3 L33), 35 (WP30 P3 L34), 36 (WP3 L28), 37-38 \*(WP3 L29)\*, 39 (WP3 L29).

The dollar figures in column 2, lines 7-10, 13-14, 31-39.

The dollar figures in column 3, lines 31-39.

These figures are drawn from the same respective line numbers of Jerry Dick's Work papers as the figures which are described directly above.

Document No. 6014-90

On May 15, 1990, our staff served its First Set of Interrogatories to the FPTA that also included requests for the production of certain documents. On July 9, 1990, pursuant to a Notice of Intent to Request Specified Confidential Classification, FPTA provided to our staff certain documents containing information identified by members of the FPTA as confidential and proprietary business information. This Request for Confidential Classification pertains only to the documents submitted pursuant to the July 9, 1990 Notice. Specific requests:

Number of Refunds -- Response to Staff's First Set of Interrogatories item No. 74 -- (lines 7-11).

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Number of Operator-assisted O+ local calls -- Response to Staff's First Set of Interrogatories item Nos.: 79d (line 10), 79e (lines 14 and 16), 79f (lines 4 and 6), 79g (lines 10 and 12), 79h (lines 16 and 18), 79i (line 4), 79j (line 10), 79k (line 18).

FPTA asserts that because of the dynamic nature of pay telephone service competition in the State of Florida, it estimates that this material will require confidential classification on an ongoing basis for not less than 3 years. FPTA requests that the designated material retain confidential classification for the entire period held by this Commission and be returned to FPTA, through its counsel, after we no longer require the material. FPTA asserts that there is no compelling need or legitimate interest served by disclosure of the data, that the material should be deemed confidential by this Commission, since the information is a trade secret, that disclosure of the information would be of adverse economic impact to FPTA's competitive posture vis a vis other pay telephone providers, which includes other FPTA members, pay telephone providers who are not FPTA members, and the local exchanges companies (LECs). FPTA also asserts that each of its members has marketed its pay telephone services to the public based in part on a business plan that includes each company's analysis of current and future market potential and that public disclosure of revenues and cost information could enable a competitor to deduce each FPTA member's business plan and each member's evaluation of actual and potential markets, thus making the results of that payphone provider's research and planning available at essentially no cost. With this information, markets may be abandoned or not entered, additional or enhanced facilities may not be installed, or installation decisions may otherwise be negatively affected. FPTA concludes that business decisions will be impacted because of access to this information, the marketplace will be skewed, and customers will experience adverse service and pricing problems. FPTA argues that public knowledge of the Confidential Response can and does affect each FPTA member's ability to bid and contract for services and to otherwise provide services to pay telephone end users.

### Conclusion

All of the data at issue in document no. 6014-90 is company specific information from various members of the FPTA. We find this to be trade secret information the release of which could harm these competitive pay telephone providers vis-a-vis each other, as

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well as versus LEC pay telephone providers. Additionally, the release of such information could hamper the ability of competitive pay telephone providers to bargain and contract with both suppliers and customers. Thus, we accept the FPTA's arguments for confidential treatment of the items requested in Document No. 6014-90 and grant the material confidential classification in its entirety.

#### UNITED'S REQUEST

This Request is styled as United's Second Request but is actually United's only request for confidential treatment in this docket.

#### Document No. 6855-90

United asserts that parts of its responses to Staff's First Set of Interrogatories Nos. 11, 15, 86, 87 and 89 and Interrogatory No. 19, of the FPTA's First Set of Interrogatories are entitled to confidential treatment.

United Asserts the following for the confidential classification of information provided in response to Staff Interrogatory No. 11, lines 1, 2, 3, 4, and 5:

The information in these lines identifies specific United pay station location owners by name, specific pay station locations, and the amount of commission paid to those location owners. United asserts that public disclosure of this information would allow United's competitors in the pay telephone business an unfair advantage in identifying and targeting the locations of United pay stations for replacement, and an unfair advantage in negotiation of the amount of the commissions. United contends that such disclosures could lead to the loss of pay station locations to competitors and would harm United in this competitive business. United concludes that no public benefit offsets the harm that would result from disclosure of this information.

United argues the following for the confidential classification of information in Staff Interrogatory No. 15, line 1, columns A and B:

This information contains the total amount paid by United in pay telephone commissions and the average commission in dollars per

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pay station. United argues that public disclosure of this information would allow United's competitors an undue advantage in the competitive marketplace. United contends that with this information its competitors would have strategic market information which will assist them in establishing commission levels and displacing United's pay stations. United concludes that no public benefit is gained by publicly disclosing the information which would outweigh the potential harm to the customer involved.

United asserts the following for the confidential classification of information in Staff Interrogatory No. 86, line 2; Staff Interrogatory No. 87, lines 2 and 4, and Staff Interrogatory No. 89, lines 2 and 4:

This information consists of average monthly intraLATA revenues originated at prison paystations, average monthly intraLATA revenues for all United paystations, and average monthly intraLATA revenues from a major airport. United contends that public disclosure of this information will allow its competitors in the pay telephone business an undue advantage. United asserts that with this information its competitors could determine if replacement of United's prison paystations and airport paystations would be lucrative and that its competitors could also approach United's customers armed with information concerning the parameters of the commissions United pays and thus would have an advantage over United in negotiations with these customers. United contends that no public benefit is served by public disclosure of this information.

United asserts the following for the confidential classification of information in Interrogatory No. 19, line 2:

This information consists of the incremental billing and collection cost per message including recording. United argues that billing and collections is a regulated service on an intrastate basis, but unregulated on an interstate basis. United is seeking to have the service detariffed on an intrastate basis. United contends that public disclosure of its incremental cost, would put United at a disadvantage in negotiating interstate billing and collections contracts since its competitors would know its costs, and could determine the lowest price at which United can sell the service. Thus, United concludes that it would be disadvantaged in negotiating a price for the service.

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United asserts that the material for which confidential classification is sought is intended to be and is treated by United as confidential and has not been disclosed without being subject to an agreement to maintain its confidentiality. United asks that the information remain confidential through the entire course of this proceeding and thereafter. Upon conclusion of this Docket, United requests that the information described above be returned to United.

Conclusion

The following items shall be held confidential:

Response to Staff's Interrogatory No. 11 (flat-rate commissions):

The dollar amount in line 1  
The customer name and premises in lines 2 and 3  
The dollar amount in line 4  
The customer name in line 5.

This information identifies specific pay station locations, location owners, and commission amounts and its disclosure could clearly harm United's ability to compete with other pay telephone providers. The items shall be held confidential.

Response to Staff's Interrogatory No. 15 (total commissions):

The dollar amounts in line 1.

This information contains total and average commissions paid by United to location owners. Public disclosure of this information could allow United's pay telephone competitors an undue advantage in marketing their services. The material shall be held confidential.

Response to Staff's Interrogatory No. 86 (prison payphone revenue):

The dollar amount in line 2.

Response to Staff's Interrogatory No. 87 (prison payphone revenue versus regular payphone revenue):

The dollar amount in line 2.

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Response to Staff's Interrogatory No. 89 (prisons versus airports):

The dollar amounts in lines 2 and 4.

This information consists of monthly revenue information for prison payphones, airport payphones, and average revenues for all payphones. Disclosure of this information would allow United's pay telephone competitors an undue advantage in that they could specifically target certain United locations for replacement. The material shall be held confidential.

Response to FPTA's Interrogatory No. 19 (cost of billing and collection):

The figure at the end of line 2.

This information consists of the incremental billing and collection cost per message including recording. Although billing and collection is regulated on an intrastate basis, it is unregulated on an interstate basis. United also claims to be seeking the detariffing of billing and collection on an intrastate basis. Disclosure of United's costs for this service would hamper its ability to negotiate favorable contracts for the provision of billing and collection services. The material shall be held confidential.

The following information shall not be held confidential, for the following reason:

Response to Staff's Interrogatory #87 (prison payphone revenue versus regular payphone revenue):

The dollar amount in line 4.

This figure is the average intraLATA revenue for all United paystations. In other interrogatory responses United has revealed the average total revenue for all United paystations. While the disclosure of this figure would allow a calculation of the difference between the two figures (total revenue vs. intraLATA revenue) staff does not believe that public knowledge of these figures would harm the Company's competitive position in the pay telephone market. Therefore, this figure shall not be held confidential.




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Based on the foregoing, it is

ORDERED by Chairman Thomas M. Beard, as Prehearing Officer, that Southern Bell Telephone and Telegraph Company, the Florida Pay Telephone Association, and United Telephone Company's, respective Requests for Specified Confidential Classification are partially granted and partially denied as set forth in the body of this Order for the reasons set forth herein. It is further

ORDERED that this docket shall remain open.

By ORDER of Chairman Thomas M. Beard, as Prehearing Officer, this 14th day of MAY, 1991.



THOMAS M. BEARD, Chairman  
and Prehearing Officer

( S E A L )

CWM/ABG

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)

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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.