

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request of US Telecom,) DOCKET NO. 910101-TI
Inc., d/b/a Sprint Gateways)
for Specified Confidential) ORDER NO. 24559
Classification)
ISSUED: 5/20/91

ORDER DENYING REQUEST FOR CONFIDENTIAL CLASSIFICATION

On January 31, 1991, US Telecom, Inc., d/b/a Sprint Gateways, (US Telecom) requested confidential classification of portions of its 1990 Annual Report to the Commission. The information sought to be classified as confidential is US Telecom's Points of Presence (POPs) addresses and percent interstate usage (PIU) by POP.

Pursuant to section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, US Telecom has the burden to show that the material submitted is qualified for confidential classification. Rule 25-22.006, Florida Administrative Code, provides that the company may fulfill its burden by demonstrating that the information falls under one of the statutory examples of proprietary confidential business information set out in section 364.183, Florida Statutes, or by demonstrating that the information is proprietary confidential business information, the disclosure of which will cause the company or its ratepayers harm.

US Telecom first asserts that its POP addresses and PIU are trade secrets. It claims that the information has economic value because disclosure "would unduly hamper US Telecom's ability to bargain and contract with customers for equipment and services, thus constituting an 'economic value' sought to be protected by the statute." US Telecom also claims that "identification of POP addresses poses a valid security concern for the protection of valuable network equipment vital to US Telecom's provision of services, thus further constituting an 'economic value.'" US Telecom additionally claims that competitors could be able to deduce its business plan from the information.

It is notable first that 97 interexchange companies have submitted their 1990 annual reports to the Commission. Only US Telecom and US Sprint Communications Company Limited Partnership, however, have requested that any portion of their reports be classified confidential. This fact tends to place in doubt the

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company's assertion that any of the information has the economic value necessary to qualify as a trade secret, or is otherwise proprietary confidential business information under section 364.183(3).

It is also doubtful that public disclosure of the 1990 annual report's listing of POP locations would pose a security risk to the company's operations. Moreover, section 364.183(3)(c), Florida Statutes, only includes "security measures, systems, or procedures" in the definition of proprietary confidential business information. Although secrecy of the list of locations of POPs might be one measure taken to protect security, when the POP locations can be otherwise easily discovered by an interested person, standing alone it is insufficient.

In Order No. 21102, cited by US Telecom as support for its argument that the information should not be disclosed, the Commission protected only the security measures taken by a company. Confidentiality of the locations of facilities the company was protecting with those security measures was not addressed.

Contrary to US Telecom's assertion, PIU information has not been treated "at all times" as confidential in Docket No. 890815-TL. That docket involved reporting format, and the issue of confidentiality was not ruled on. The Commission has in the past classified as confidential network capacity and quantity of traffic, however, the PIU information here reveals only a ratio. It does not reveal capacity of the network or quantity of traffic. It is clear from the annual reports of 95 other IXCs that this information is not the kind considered by the industry to be of value to competitors or otherwise proprietary confidential business information. US Telecom has not met its burden of demonstrating that disclosure will cause it competitive harm.

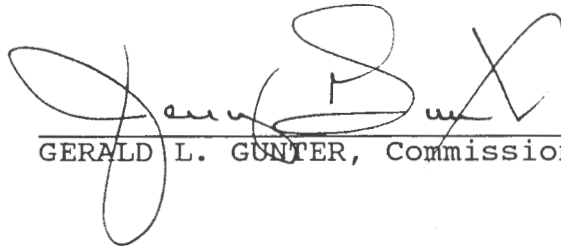
For the reasons stated, I conclude that the request for confidential classification should be denied. Accordingly, US Telecom's 1990 Annual Report shall not be exempt from the requirements of section 119.07(1), Florida Statutes.

In consideration of the foregoing, it is

ORDERED by Commissioner Gerald L. Gunter, as Prehearing Officer, that the request for confidential classification filed by US Telecom on January 31, 1991, is hereby denied pursuant to Rule 25-22.006, Florida Administrative Code, and section 364.183, Florida Statutes.

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By ORDER of Commissioner Gerald L. Gunter, as Prehearing Officer, this 20th day of MAY, 1991.


GERALD L. GUNTER, Commissioner

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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.