

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation to deter-) DOCKET NO. 920255-TL-
mine whether LEC PATS is compet-) ORDER NO. PSC-93-1279-CFO-TL
itive and whether LEC PATS) ISSUED: September 2, 1993
should be regulated differently)
than it is currently regulated.)
_____)

ORDER ADDRESSING REQUESTS FOR SPECIFIED
CONFIDENTIAL CLASSIFICATION OF DOCUMENTS
NUMBERS 9522-92, 10440-92, 10441-92 AND 11251-92

This Order addresses unopposed requests for specified confidential classification filed by BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company (Southern Bell or the Company). Southern Bell asserts generally 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.

Under Section 119.01, Florida Statutes, documents submitted to governmental agencies are public records. The only exceptions to this law are specific statutory exemptions and exemptions granted by governmental agencies pursuant the specific terms of a statutory provision.

Pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, the burden of proving that the materials qualify for specified confidential classification falls upon Southern Bell. According to Rule 25-22.006, Southern Bell must meet this burden by demonstrating that the materials fall into one of the statutory examples set forth in Section 364.183, or by demonstrating that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

On August 21, 1992, Southern Bell filed a Notice of Intent to Request Specified Confidential Classification for certain information provided in response to the Florida Pay Telephone Association, Inc.'s (FPTA's) First and Second Sets of Requests for Production of Documents and the Office of Public Counsel's (OPC's) First Set of Requests for Production of Documents. This information is filed under Commission Document No. 9522-92. Then, on September 10, 1992, Southern Bell filed its Request for Confidential Treatment of Portions of Exhibit No. 33. This data is identified as Commission Documents Numbers 10440-92 and 10441-92.

DOCUMENT NUMBER-DATE

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Subsequently, on September 25, 1992, Southern Bell refiled Attachment "A" of Commission Document Number 10440-92. This replacement for Attachment "A" has been given Commission Document Number 11251-92.

Document No. 10440-92 (refiled as 11251-92)

Southern Bell requests confidential treatment of the information on pages 9-12 which contains its guidelines for the payment of commissions to location providers. The document sets forth the various segments of the location provider market and the parameters of compensation for that particular segment. The Company argues that disclosure of this information would impair its ability to compete for locations to place its pay telephones and that it could lose business from such disclosure. In addition, its competitors would gain commercially valuable data otherwise not available, giving them an advantage competitively over Southern Bell.

Southern Bell also requests confidential treatment of the information on pages 15-22, 24-25, 28-29, 40-41, 97-128, 151-168, 170-176, 257-267, 284-307, 309-336, 338-341, 346-347, 349-360, and 385-388, which are renditions of Southern Bell's strategic plans for its public communications operations. The plans contain strategies of a long and short term basis for both marketing and implementation of coin services, including both basic calling services and enhancements for various end user markets. The majority of the documents contain Southern Bell's analysis of the public communications market and, as such, represent considerable hours and expense on the part of Southern Bell. The Company argues that disclosure of these analyses, strategies, and plans to its competitors would greatly impair Southern Bell's ability to compete for locations and would give NPATS providers commercially valuable information not otherwise available in the market.

In addition, Southern Bell requests confidential treatment of the information on pages 143-144, 178-181, 183-186, 189-192, 194-195, 197-201, 204-210, 224, 223-241, 244-255, 269-271, and 274-280 which are analyses, evaluations, and results of market research in the area of public communications conducted by or on behalf of Southern Bell. The Company has invested expense and considerable time to develop and conduct this market research. Southern Bell argues that disclosure of this information to NPATS providers would greatly impair its ability to compete for locations and would give

NPATS providers commercially valuable information not otherwise available to them.

Upon review, I agree that the information discussed above should be held confidential. Disclosure of this information could provide significant benefits to NPATS providers in competing for locations, as well as giving them market research that could be used to help them better compete in the market. Accordingly, the above-described information shall be exempt from Section 119.07(1).

Document No. 10441-92

Southern Bell requests confidential treatment of information on page 2, lines 34-36, and page 4, lines 22-23, which describes the Company's Florida public communications operation, the revenue objective, and the percent objective met for the month of December 1990, and January through December of an unspecified year. Southern Bell argues that disclosure of this information would give the NPATS providers a gauge regarding Southern Bell's marketing objectives for the placement of public telephones. Southern Bell states that this information is not otherwise available to NPATS providers.

Southern Bell also requests confidential treatment of information on page 2, lines 34-36 and 40-42, and on page 4, lines 38-39, which shows the revenue per Southern Bell and NPATS station combined. Southern Bell argues that disclosure of its revenues from public and semi-public telephone service on a per phone basis will provide an advantage to the NPATS providers and will impair Southern Bell's ability to compete in the pay telephone market. This type of information was held confidential in Order No. 24531, issued May 14, 1991, in Docket No. 860723-TP.

In addition, Southern Bell requests confidential treatment of information on page 140, lines 1-5; page 142, lines 5-7 and 32-40; page 157, lines 1-17; page 223, lines 22-23; and page 225, lines 1-6, which reveals the results or subject matter of market research conducted on behalf of Southern Bell regarding its public communications operation. Information on page 145, lines 1-2 was highlighted, but inadvertently omitted from the pleading. It contains related information and should be included in the ruling on this material. Southern Bell argues that it has expended time and resources in the development of this market research in an effort to meet the competitive challenges of the marketplace. The Company argues that this information is not otherwise available to

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NPATS providers and that disclosure would impair its competitive position.

Finally, Southern Bell requests confidential treatment of the information on page 375, line 1; page 376, line 1; and page 381, lines 1-7. This is an illustrative tariff for Southern Bell's Premium Plan for 0- and 0+ operator assisted calls originating from a customer's premise, terminating in the same LATA. Southern Bell argues that the provision of intraLATA services in Florida is competitive and that a number of its competitors pay a premium to customers for routing traffic to them for handling. Southern Bell argues that disclosure of this information would impair its ability to compete in the intraLATA services market.

Upon review, I agree that all information discussed above, except page 2, lines 34-36 and 40-42, should be held confidential. Disclosure of the above-referenced data could put the Company at a competitive disadvantage. Accordingly, the above-described information shall be exempt from Section 119.07(1).

The information on page 2, lines 34-36 and 40-42 can be easily determined from information in the same document which Southern Bell has not requested confidential treatment for. In addition, this information has been publicly disclosed in other documents. The information in lines 34-36 and 40-42 is derived by averaging information for which Southern Bell has not requested confidential treatment. Accordingly, this portion of Southern Bell's request shall be denied.

Based on the foregoing, it is

ORDERED by Chairman J. Terry Deason, as Prehearing Officer, that BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company's September 10 and 25, 1992, Requests for Specified Confidential Classification of Documents Nos. 10440-92 (refiled as 11251-92) and 10441-92 (cross-referenced to Document No. 9522-92) are hereby granted in part and denied in part as set forth herein. 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 documents specified herein shall expire eighteen (18) months from the date of issuance of this Order in the absence of a renewed request for confidentiality pursuant to Section 364.183. 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 Chairman J. Terry Deason, as Prehearing Officer, this 2nd day of September, 1993.



J. TERRY DEASON, Chairman and
Prehearing Officer

(S E A L)

ABG/AQP

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 wastewater utility. A motion for

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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.