

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation into ) DOCKET NO. 930330-TP  
intraLATA presubscription. ) ORDER NO. PSC-95-0126-CFO-TP  
\_\_\_\_\_ ) ISSUED: January 26, 1995

ORDER DENYING CONFIDENTIAL CLASSIFICATION  
OF DOCUMENT NO. 09998-94

On September 29, 1994, ALLTEL Florida, Inc. (ALLTEL or the Company) filed a Request for Confidential Classification of specified information contained in its response to Staff's Interrogatory number 47. The Response has been assigned Document No. 09998-94 by the Commission.

Florida law provides, in Section 119.01, Florida Statutes, that documents submitted to governmental agencies shall be public records. This law derives from the concept that government should operate in the "sunshine." The only exceptions to this law are specific statutory exemptions and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision.

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

Document No. 09998-94 includes ALLTEL's intraLATA MTS traffic volumes and associated revenues by month for the period September, 1992 through August, 1994. This data is broken down by minutes of use, messages and mileage bands.

The Company asserts that Document No. 09998-94 contains mileage-band specific toll volumes and revenue information relating to the competitive intraLATA toll market and if disclosed would impair the Company's competitive intraLATA toll business. The Company believes that competitors could use this information to gain free access to key market size and profitability data shown on the analysis. It argues that this information would allow competitors to make the decision to enter or not to enter the intraLATA toll market. Thus, the Company concludes that the information provided meets the statutory criteria for proprietary confidential business information pursuant to Section 364.183,

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Florida Statutes, and should, therefore, be afforded confidential classification.

Upon review, the information is found to be in aggregated form. It does not include route specific or market specific information. The Commission has found that aggregate toll usage data by mileage band is not useful for targeting a specific market niche, since usage characteristics of particular market segments are not included. (See Order No. PSC-93-0410-CFO-TL) Thus, the data is not useful to competitors; and, the material cannot be classified as proprietary confidential business information pursuant to Section 364.183(3)(a),(e), Florida Statutes. Accordingly, ALLTEL's Request for Confidential Classification of Document No. 09998-94 is denied. This decision is consistent with Commission Order 93-1688-CFO-TP, a ruling made in this docket regarding, in part, an identical request by BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company.

Based on the foregoing, it is

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that ALLTEL Florida, Inc.'s Request for Confidential Classification of Document No. 09998-94 is denied. It is further

ORDERED that pursuant to Section 364.183, Florida Statutes and Rule 25-22.006, Florida Administrative Code any 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, Florida Administrative Code. It is further

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 Commissioner J. Terry Deason, as Prehearing Officer, this 26th day of January, 1995.



J. TERRY DEASON, Commissioner and  
Prehearing Officer

( S E A L )  
MMB

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 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.