

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Confidential) DOCKET NO. 940711-TL
Treatment by BellSouth) ORDER NO. PSC-95-0270-CFO-TL
Telecommunications, Inc. d/b/a) ISSUED: March 1, 1995
Southern Bell Telephone and)
Telegraph Company of information)
filed in response to informal)
complaint by Florida Cable)
Television Association, Inc.)
concerning Monroe County)

ORDER ON CONFIDENTIALITY

By letter dated September 7, 1994, Commission staff requested certain information from BellSouth Telecommunications, Inc., d/b/a Southern Bell Telephone and Telegraph Company (Southern Bell or the utility) related to Florida Cable Television Association, Inc.'s complaint against Southern Bell concerning Monroe County. On October 7, 1994, Southern Bell provided the requested information and filed a notice of intent (Document No. 10324-94) to seek confidential classification. On October 28, 1994, Southern Bell filed its request for confidential classification (Document No. 11026-94) concerning the confidential information (Document No. 11028-94, x-ref Document No. 10324-95), as provided in Rule 25-22.006, Florida Administrative Code.

Pursuant to Section 119.01, Florida Statutes, documents submitted to this Commission are public records. 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.

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

DOCUMENT NUMBER-DATE

02319 MAR-1 1995

FPSC-RECORDS/REPORTING

Southern Bell seeks confidential classification for two types of information. The first consists of Southern Bell/Monroe County contract service arrangement prices and related information, which the utility argues is "information relating to competitive interests." Section 364.181(3)(e), Florida Statutes. The second type of information is customer specific information such as names, addresses, telephone, and circuit numbers, which Southern Bell argues should be confidential under Section 119.07(3)(w), Florida Statutes.

The utility argues that public disclosure of the Southern Bell/Monroe County contract service arrangement prices and related information would harm the utility because competitors could use this information to undercut Southern Bell's prices. Except for the information in lines 3-10 of columns C and D on page 12, this information is found to be proprietary confidential business information under Section 364.183(3)(e). The information in columns C and D is already public. Southern Bell files Schedule 20 with the Commission on a quarterly basis, and this schedule contains the information listed in column C. The information in column D was made public by Southern Bell when it withdrew its request for confidentiality concerning Document No. 5782-94. The request for the information on page 12 in lines 3-10 of columns C and D is denied because the information has already been made public by the utility.

Southern Bell argues the customer specific information should be confidential pursuant to Section 119.07(3)(w), Florida Statutes. This section exempts:

[a]ll records supplied by a telecommunications company to a state or local governmental agency which contain the name, address, and telephone number of subscribers . . . from the provisions of [Section 119.07(1)].

This section does not apply in this instance. As the docket title suggests, the information requested by Commission staff concerns only one of Southern Bell's customers, Monroe County. This customer is a county government that operates under the Public Records Law; therefore, its name, address, and telephone number is already public. Moreover, the documents that establish the contract service arrangement between Monroe County and Southern Bell have already been made public. Since this information is already public, it is not entitled to an exemption under Section 119.07(3)(w). Accordingly, Southern Bell's request for confidential treatment concerning the information listed in Appendix B of this order is denied.

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Southern Bell asserts that the information for which confidential treatment has been requested is intended to be and is treated as confidential by Southern Bell and has not been disclosed to the public.

Upon review, the data identified in Document No. 11028-94 as described in Appendix A to this order is hereby found to be proprietary confidential business information pursuant to Section 364.183, Florida Statutes. As such, it shall be kept confidential and shall be exempt from Section 119.07(1), Florida Statutes.

It is therefore

ORDERED by Chairman Susan F. Clark, as Prehearing Officer, that the Request for Confidential Classification for the information listed in Appendix A of this order contained in Document No. 11028-94 (x-ref Document No. 10325-94), filed by BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company is hereby granted pursuant to Rule 25-22.006, Florida Administrative Code, and Section 364.183, Florida Statutes, for the reasons set forth in the body of this order. It is further

ORDERED that the Request for Confidential Classification for the information listed in Appendix B of this order contained in Document No. 11028-94 (x-ref Document No. 10325-94) is hereby denied pursuant to Rule 25-22.006, Florida Administrative Code, and Section 364.183, Florida Statutes, for the reasons set forth in the body of this order. It is further

ORDERED that pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, any confidential classification granted to the documents specified herein shall expire 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

ORDERED that this order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

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By ORDER of Chairman Susan F. Clark, as Prehearing Officer,
this 1st day of March, 1995.


SUSAN F. CLARK, Chairman and
Prehearing Officer

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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 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

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review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

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APPENDIX "A"

INDEX OF INFORMATION GRANTED
PROPRIETARY CONFIDENTIAL BUSINESS INFORMATION STATUS
IN COMMISSION DOCUMENT NO. 11028-94

<u>ITEM NO./</u> <u>PAGE NO.</u>	<u>LINE NOS.</u> <u>COL. NO.</u>
1	Lines 15-19, 48-52
2	Lines 6-24, 27-45
3	Lines 5-14
4	Lines 8-33
5	Lines 2-41
6	Lines 2-36
7	Lines 2-20
8	Lines 6-11, 17
11	Lines 6-9, 11, 17

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APPENDIX "B"

INDEX OF INFORMATION NOT GRANTED
PROPRIETARY CONFIDENTIAL BUSINESS INFORMATION STATUS
IN COMMISSION DOCUMENT NO. 11028-94

<u>ITEM NO./</u> <u>PAGE NO.</u>	<u>LINE NOS.</u> <u>COL. NO.</u>
1	Lines 6-10, 28-31, 45
8	Line 1
9	Lines 1, 7, 10, 11
10	Line 1
11	Line 1
12	Lines 3-10