

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition and Complaint) DOCKET NO. 931138-TL
of Florida Independent Directory) ORDER NO. PSC-96-1502-CF0-TL
Publishers to Amend Directory) ISSUED: December 11, 1996
Publishers Database Service)
Tariff of BellSouth)
Telecommunications, Inc. d/b/a)
Southern Bell Telephone and)
Telegraph Company)

ORDER GRANTING CONFIDENTIAL CLASSIFICATION

On September 12, 1996, BellSouth Telecommunications, Inc. (BellSouth), filed a request for confidential classification of certain cost information filed August 22, 1996, in response to Staff's First Request for Production of Documents. The information is contained in Commission Document No. 9724-96 (cross-reference Commission Document No. 8971-96), identified as Cost Study Directory Assistance Database and Directory Publishers Database Service.

Section 119.01, Florida Statutes provides that documents submitted to governmental agencies shall be public records. The only exceptions are specific statutory exemptions. This law derives from the concept that government should operate in the "sunshine." It is this Commission's view that the burden to be met by one requesting confidential classification of documents submitted during a proceeding before us is very high.

Rule 25-22.006(4), Florida Administrative Code, provides that the utility must demonstrate how the information asserted to be confidential qualifies as one of the statutory exemptions to Section 119.07, Florida Statutes, in Section 364.183(3), Florida Statutes, or how the ratepayers or the utility's business operations will be harmed by disclosure. The burden of proof shall be on the utility to show that the material in question is bona fide proprietary confidential business information.

BellSouth states that the information for which it seeks confidential treatment relates to and affects various competitive interests of BellSouth, the disclosure of which would impair BellSouth's business in a competitive environment. Additionally, BellSouth states that the cost information is valuable information, used by BellSouth in its business, that it strives to keep secret. Thus, BellSouth argues that the information is proprietary

DOCUMENT NUMBER-DATE

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confidential business information pursuant to Sections 364.183(3)(a) and (e), Florida Statutes.

The cost study identifies the incremental cost of its Directory Assistance Database Service (DADS) and Directory Publishers Database Service (DPDS). DADS provides to customers providing alternate directory assistance service a base file of directory listings and a daily update file of directory listing changes by central office on magnetic media. DPDS provides an extract of directory listings and optional weekly reports of business activity by central office. DADS and DPDS are tariffed services offered by BellSouth in a competitive market.

BellSouth explains that "public disclosure of this cost information would provide BellSouth's competitors and potential competitors with an advantage in that they would have access to BellSouth's cost information for providing unbundled services on a going forward basis, allowing those competitors to formulate more aggressive entry, marketing, pricing, and overall business strategies relating to BellSouth's services in Florida." BellSouth further explains it is not able to obtain comparable information from its competitors.

I find that the information for which BellSouth requests confidential classification may be protected as information relative to competitive interests, the disclosure of which would impair the competitive business of BellSouth, pursuant to the provisions of Section 364.183, Florida Statutes. Accordingly, BellSouth's request for confidential classification of Commission Document No. 9724-96 (cross-reference Commission Docket No. 8971-96) is granted. Pursuant to Section 364.183(4), Florida Statutes, the information shall be classified as proprietary confidential business information for a period no longer than eighteen months from the issue date of this Order, unless the company shows, and the Commission finds, that the protection from disclosure shall be for a longer time. The classified information shall be returned to BellSouth in accordance with Section 364.183(4), Florida Statutes, and Rule 25-22.006(9), Florida Administrative Code.

Based on the foregoing, it is, therefore,


ORDERED by Commissioner Diane K. Kiesling, as Prehearing Officer, that the Request for Confidential Classification filed by BellSouth TeleCommunications, Inc. is granted. It is further

ORDERED that, in accordance with Section 364.183(4), Florida Statutes, and Rule 25-22.006(9), Florida Administrative Code, the confidentiality granted to the information specified herein shall

expire eighteen months from the date of this Order in the absence of a renewed request for confidential classification. It is further

ORDERED that this Order shall be the sole notice of the expiration of confidentiality.

By ORDER of Commissioner Diane K. Kiesling, as Prehearing Officer, this 11th day of December, 1996.



DIANE K. KIESLING, Commissioner
and Prehearing Officer

(S E A L)

CJP

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 25-22.0376, 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

ORDER NO. PSC-96-1502-CF0-TL
DOCKET NO. 931138-TL
PAGE 4

above, pursuant to Rule 9.100, Florida Rules of Appellate
Procedure.