

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by AT&T  
Communications of the Southern  
States, Inc. for arbitration of  
certain terms and conditions of  
a proposed agreement with  
BellSouth Telecommunications,  
Inc. concerning interconnection  
and resale under the  
Telecommunications Act of 1996.

DOCKET NO. 960833-TP  
ORDER NO. PSC-97-0950-CFO-TP  
ISSUED: August 11, 1997

ORDER GRANTING AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION  
FOR DOCUMENT NO. 08035-96

Pursuant to Rule 25-22.006(4), Florida Administrative Code, AT&T Communications of the Southern States, Inc. (AT&T or the Company) requested confidential treatment for certain information. This information is contained in Document No. 08035-96.

Florida law presumes that documents submitted to governmental agencies shall be public records. The only exceptions to this presumption are the specific statutory exemptions provided in the law and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. This presumption is based on the concept that government should operate in the "sunshine." Rule 25-22.006(4), Florida Administrative Code, provides that it is the company's burden to demonstrate that the documents fall into one of the statutory examples set out in section 364.183, Florida Statutes, or to demonstrate that the information is proprietary confidential information, the disclosure of which will cause the company or its ratepayers harm.

Section 364.183(3), Florida Statutes, provides the following definition for proprietary confidential business information.

The term 'proprietary confidential business information' means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's

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business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public. The term includes, but is not limited to:

- (a) Trade secrets.
- (b) Internal auditing controls and reports of internal auditors.
- (c) Security measures, systems, or procedures.
- (d) Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the company or its affiliates to contract for goods or services on favorable terms.
- (e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information.
- (f) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities.

Rule 25-22.006(4)(c), Florida Administrative Code, requires that the Company demonstrate by a line-by-line or field-by-field justification how the information asserted to be confidential qualifies as one of the statutory examples listed in section 364.183(3), Florida Statutes. If no statutory example is applicable, then the Company shall include a statement explaining how the ratepayers or the Company's operations will be harmed by disclosure.

Specifically, AT&T seeks confidential treatment for Exhibits Nos. WE-1, WE-3, WE-4, and WE-5, which are attached to the direct testimony of Wayne Ellison. The Company also seeks confidential treatment of Exhibits Nos. AL-6 and AL-7, which are attached to the direct testimony of Art Lema. These exhibits comprise Document No. 08035-96.

AT&T asserts that the document contains proprietary confidential information. Certain information in the documents was obtained from BellSouth Telecommunications, Inc., during negotiations pursuant to a nondisclosure agreement. Specifically the document contains comparisons of BellSouth's avoided costs with AT&T's avoided costs for accounts such as uncollectibles, customer

service and billing, and directory assistance. The document also includes comparisons of nonrecurring and recurring costs for unbundled elements, and comparison of BellSouth's assumptions and AT&T's assumptions regarding costs of capital.

I am persuaded by AT&T's argument that this is information that should be granted confidential status. It appears BellSouth and AT&T intended that avoided cost information and cost of capital information be kept confidential. These types of information fall into the category described in Section 364.183(3)(e), Florida Statutes. Disclosing the cost information would provide potential competitors with information regarding how low AT&T and BellSouth could price their services. Since disclosure may result in economic harm, I hereby grant confidential treatment for Document No. 08035.


Based upon the foregoing, it is

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that AT&T of the Southern States, Inc.'s request for Confidential Classification for Document No. 08035-96 is granted.

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. 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 11th day of August, 1997.

  
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J. TERRY DEASON  
Commissioner and Prehearing Officer

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AED

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.