

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-97-0955-CFO-TP
ISSUED: August 11, 1997

ORDER GRANTING AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
FOR DOCUMENTS NOS. 07452-96, 07453-96, 07454-96, AND 07455-96

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 Documents Nos. 07452-96, 07453-96, 07454-96, and 07455-96.

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 business operations, and has not been disclosed unless

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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 the following information:

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Document No. 07452-96

AT&T describes the information in Document No. 07452-96 as proposed pricing information and product delivery plan information. The Company argues that disclosure of specific proposed pricing for local service and unbundled network elements would have an adverse impact on AT&T's ability to negotiate with other service providers. Releasing the information to AT&T's competitors would provide the competitors with an advantage in their own contract negotiations. Regarding its product delivery plan information, AT&T contends that disclosing these plans would allow competitors to plan their offers in advance to meet or exceed AT&T's planned offerings.

The above information is treated as confidential by AT&T. The information was developed by AT&T as a part of its negotiations with BellSouth to provide local telecommunications services. As previously stated, the law, however, presumes that documents submitted to governmental agencies shall be public records. The Company has the burden to either demonstrate that the information falls into one of the examples of a statutory exemption provided in section 364.183(3), Florida Statutes, or demonstrate that release of the information would result in harm to AT&T or ratepayers.

I conclude that the information regarding proposed pricing for local service and unbundled network elements falls into the category described in Section 364.183(3)(d), Florida Statutes. The information describes a number of proposed discounts and prices on network elements necessary for AT&T's provision of local service. Release of this information could have an adverse impact on AT&T's ability to negotiate with service providers. The information is contractual in nature; therefore I grant confidential classification for the proposed pricing information documented on pages 200012 through 200016 and 200018 through 200026.

In addition I conclude that the information in AT&T's product delivery plan should be treated as a trade secret. I agree that disclosure of this product delivery plan could put AT&T at an undue competitive disadvantage. As such, AT&T's product delivery plan shall be granted confidential treatment.

Document No. 07453-96

Document No. 07453-96 contains AT&T's technical plan for processing 411 and directory assistance calls in the local market. The Company argues that the information describes AT&T's network capabilities for processing directory assistance calls including its network architecture, call flows, and routing of traffic. The

document also includes vendor information and customer billing information. I conclude that this information falls within the definition of a trade secret. While directory assistance itself is not a service unique to any one telecommunications provider, each provider may have its own methodology for providing the service. Thus, I grant confidential classification for this document.

Document No. 07454-96

Document No. 07454-96 contains AT&T's technical plan for offering local operator services, the estimated amount of orders for resale services that AT&T plans to place with BellSouth, proposed entry dates into the local market, and projected calling volumes and associated labor cost for processing the calling volume. The Company asserts that disclosure of this information would provide a competitor with information with which the competitor could formulate its own market entry plans. The technical plan is the Company's unique method of providing operator service. As such the technical plan meets the definition of a trade secret. The information regarding the estimated amount of orders for resale, proposed entry dates into the market, and projected calling volumes can all be summed up as marketing information. Release of this information could adversely affect AT&T's ability to compete. As such, I conclude that this information meets the category of proprietary confidential business information described in Section 364.183(3)(e), Florida Statutes. Disclosing information regarding AT&T's estimated orders for resale as well as estimated calling volumes can give a competitor information regarding the demand for service in a given market. Disclosing proposed entry dates into a market can tell a competitor that it may have to adjust its entry plans in order to meet AT&T's timelines. By disclosing the market entry information, AT&T would lose the opportunity of establishing a foothold in an identified market. For these reasons, the information in Document No. 07454-96 shall be granted confidential treatment.

Document No. 07455-96

Part of Document No. 07455-96 contains projected customer demand data over specified periods of time as well as the Company's assumptions and strategies for market entry into a number of cities. The Company contends that release of the data would give competitors insight into AT&T's local service plans. Disclosure of

this information can also give a competitor insight into the demand for service. Because disclosure would erode the Company's advantage in targetting customer demand and harm the Company economically, I hereby grant confidential status for this information.

Part of the document also contains proposed pricing for interconnection and unbundled elements, proposed recovery of costs incurred by BellSouth to provide electronic interfaces, and discounts on rates charged to AT&T by BellSouth for providing local service. AT&T has demonstrated that disclosure is reasonably likely to impair the Company's ability to contract for goods and services. Because the information is contractual in nature, I grant confidential classification for the proposed pricing, cost recovery, and discounts in document no. 07455-96.


Based upon the foregoing, it is

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that AT&T Communications of the Southern States, Inc.'s request for Confidential Classification for Documents Nos. 07452-96, 07453-96, 07454-96, and 07455-96 is granted. 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. 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.



J. TERRY DEASON
Commissioner and Prehearing Officer

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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.