

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Motions of AT&T
Communications of the Southern
States, Inc., and MCI
Telecommunications Corporation
and MCI Metro Access
Transmission Services, Inc., to
compel BellSouth
Telecommunications, Inc. to
comply with Order PSC-96-1579-
FOF-TP and to set non-recurring
charges for combinations of
network elements with BellSouth
Telecommunications, Inc.,
pursuant to their agreement.

DOCKET NO. 971140-TP
ORDER NO. PSC-98-1574-CFO-TP
ISSUED: November 24, 1998

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION

On March 10, 1998 BellSouth Telecommunications, Inc. (BellSouth) filed a request for confidential classification of Document No. 03025-98. On March 10, 1998, BellSouth filed a Motion to File Request for Confidential Classification One Day Out of Time for Document No. 03025-98. BellSouth asserted that the requested document contains information considered to be confidential and proprietary to BellSouth, and information containing customer specific information. BellSouth asserted that proprietary information and the customer specific information are confidential information that should be exempt from Section 119.07(1), Florida Statutes. BellSouth asks, therefore, that the information be granted confidential treatment, in accordance with Rule 25-22.006, Florida Administrative Code.

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)(c), 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.

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Specifically, BellSouth asserts that the information contained in this document is not available to BellSouth's competitors. In performing its audit, staff prepared a list of all loop/port combinations completed by BellSouth Telecommunications in 1997, and prepared a schedule of the jobs with the end user phone number and related Alternative Local Exchange Company. Additionally, the staff audit contains information gathered from interviews with BellSouth representatives to obtain knowledge of records used from inception(service order) to end(connect and test). BellSouth maintains that public disclosure of this information would cause harm to BellSouth's customers and hinder its ability to negotiate favorable contract terms. The staff audit report contains a comparison of the permanent costs approved by the Commission to the costs used as a basis for the percent discounts. BellSouth asserts that such information should be classified as proprietary, confidential business information pursuant to Section 364.183(3)(d), Florida Statutes. Attached and incorporated into this Order as Attachment A is a list of the specific items, lines, and page numbers for which BellSouth seeks confidential treatment.

Section 364.183(3), Florida Statutes, states that proprietary confidential business information is:

[O]wned 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 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.

Based on the definition of proprietary confidential business information in Section 364.183(3), Florida Statutes, it appears that the information for which BellSouth seeks confidential classification is information that, if disclosed, would cause harm to the company or its ratepayers because disclosure would violate Section 364.24, Florida Statutes. Thus, this information qualifies as proprietary business information under Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. It shall, therefore, be granted confidential treatment in accordance with those provisions.

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It is, therefore

ORDERED by Commissioner Susan F. Clark, that BellSouth Telecommunications, Inc.'s Request for Confidential Classification of Document No. 03025-98 and Motion to File Request for Confidential Classification One Day Out of Time for Document No. 03025-98 is hereby 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 material specified herein shall expire eighteen (18) months from the date of the issuance of this Order in the absence of a renewed request for confidentiality pursuant to Section 364.183, Florida Statutes. 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 Susan F. Clark, as Prehearing Officer, this 24th day of November, 1998.



SUSAN F. CLARK
Commissioner and Prehearing Officer

(S E A L)

CBW

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.

ATTACHMENT A
BellSouth Telecommunications, Inc.
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REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BellSouth's
Loop and Port Combinations Audit Workpapers filed in Response to the
February 16, 1998 Staff Audit in DOCKET NO. 971140-TP

Explanation of Proprietary Information

This information reflects customer specific information. Public disclosure of this information would cause harm to ratepayers and/or BellSouth's customers. This information is valuable, it is used by BellSouth in conducting its business and BellSouth strives to keep it secret. Therefore, such information is a trade secret which should be classified as proprietary, confidential business information pursuant to Section 364.183, Florida Statutes and is exempt from the Open Records Act.

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