

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Sprint
Spectrum L.P., d/b/a Sprint PCS
for arbitration of certain terms
and conditions of a proposed
agreement with BellSouth
Telecommunications, Inc.
pursuant to Section 252 of the
Communications Act.

DOCKET NO. 000761-TP
ORDER NO. PSC-00-1564-CFO-TP
ISSUED: August 30, 2000

ORDER GRANTING CONFIDENTIAL TREATMENT
OF DOCUMENT NO. 07649-00.

Pursuant to Section 252 of the Telecommunications Act, Sprint Spectrum L.P. d/b/a Sprint PCS (Sprint PCS) petitioned for arbitration with BellSouth Telecommunications, Inc. on June 23, 2000. On June 23, 2000, Sprint PCS filed a request for Confidential Classification pursuant to Section 364.183(1), Florida Statutes. In its Request, Sprint PCS states that the information that is the subject of this request is contained in certain documents contained in Sprint PCS's Cost Studies and exhibits filed in this Docket.

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.

Specifically in its request, Sprint PCS states that the following documents or excerpts from documents (See Document Number 07649-00) are the subject of this request:

1. Portions of Sprint's Cost Study filed as Tab 3 appended to Sprint PCS's Petition filed this same day in this docket. (Confidential material is

DOCUMENT NUMBER-DATE

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contained on Bates-stamped pages 6-12, 19-24, 44-84, 103-194, 206-218, 222-228, and 242-278.)

2. Exhibits RGF-1 and RGF-2 appended to the Prefiled Direct Testimony of Randy G. Garrar. (One page each.)

Sprint PCS asserts that the information for which it seeks confidential treatment is vendor-specific pricing information or information from which such information can be derived, trade secret, and other highly proprietary contractual, competitive, or valuable information, and thus meets the definition of confidential proprietary business information pursuant to Section 364.183(3)(a), (d), and (e), Florida Statutes. Sprint PCS argues that Section 668.002(4), Florida Statutes, is instructive on what constitutes a trade secret. That subsection provides:

(4) "Trade secret" means information, including formula, pattern, compilation, program, device, method, technique, or process that:

- (a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
- (b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Sprint PCS maintains that the subject information has not been publicly released and it is required by contract to keep certain of the information confidential. Sprint PCS contends that the release of the information could competitively harm it and impair the efforts of it or its affiliates to contract for goods or services on favorable terms, thus causing harm to its business operations. Sprint PCS adds that this Commission has found similar information to be confidential in Docket No. 960757-TP; In re: Petition by Metropolitan Fiber Systems of Florida, Inc. for arbitration with BellSouth Telecommunications, Inc. concerning interconnection rates, terms, and conditions, pursuant to the Federal Telecommunications Act of 1996. (See Order No. PSC-98-0935-CFO-TP, issued July 10, 1998.

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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 Sprint PCS 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. Disclosure of this information could be detrimental to Sprint PCS's ability to compete, and could impair its ability to contract for goods and services. As such, Sprint PCS's Request for Confidential Classification of the documents or excerpts from documents as described in the body of this Order, Document No. 07649-00, is hereby granted.

Based on the foregoing, it is


ORDERED by Chairman J. Terry Deason, as Prehearing officer, that Sprint Spectrum L.P. d/b/a Sprint PCS's Request for Confidential Classification of the Document No. 07649-00 as described in the body of this Order 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

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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 Chairman J. Terry Deason as Prehearing Officer, this 30th day of August, 2000.



J. TERRY DEASON
Chairman and Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

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

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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

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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.