

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by BellSouth
Telecommunications, Inc. for
declaratory statement regarding
disclosure of certain ALEC 911
information.

DOCKET NO. 010988-TL
ORDER NO. PSC-01-1957-DS-TL
ISSUED: October 1, 2001

The following Commissioners participated in the disposition of
this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

ORDER GRANTING BELLSOUTH TELECOMMUNICATIONS, INC.'S
PETITION FOR DECLARATORY STATEMENT

By the Commission:

BACKGROUND

On July 20, 2001, BellSouth Telecommunications, Inc. (BellSouth), pursuant to Rule 28-105.001, Florida Administrative Code, filed a Petition for Declaratory Statement (Petition). The Petition asks whether Section 364.24, Florida Statutes, prohibits BellSouth from providing to Florida counties the identity of each Resale Alternative Local Exchange Company (ALEC) that BellSouth remits 911 fees on behalf of and the amount of each resale ALEC's payments. BellSouth also asks whether Order No. PSC-99-1992-PAA-TP, issued October 12, 1999 (911 Order), and its ruling that certain 911 information is not confidential, is applicable to the identity of each resale ALEC that BellSouth remits 911 fees on behalf of and the amount of each resale ALEC's payment.

As a matter of form, we interpret the request that the above questions be "determined" as a petition for a declaration that (1) Section 364.24, Florida Statutes, does not prohibit BellSouth from providing to Florida counties the identity of each resale ALEC for

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which it is remitting 911 fees and the amount of each resale ALEC's payments; and (2) a declaration that this information is non-confidential pursuant to the 911 Order.

In support of the Petition, BellSouth notes that ALECs were not prohibited from entering into a billing arrangement to bill and collect 911 fees. 911 Order, p. 4. However, BellSouth submits to each county a bulk amount that includes all fees generated by BellSouth's and the resale ALECs' end users. BellSouth does not separately identify the resale ALECs that it is remitting payment on behalf of or the amount of each resale ALEC's payment. A county has asked for this information to ensure that each ALEC is paying the appropriate 911 fee. Pursuant to the 911 Order, when ALECs themselves collect and submit the 911 fees to counties rather than having a LEC do it for them, they are required to provide the appropriate 911 County Coordinator, on a quarterly basis, "a list of all counties in which they operate, the number of access lines by county that are relevant in the calculation of the 911 fees, and the name of a contact person available 24 hours a day, 7 days a week". Additionally, the 911 Order requires all ALECs to provide counties with the most accurate customer information (name, address, telephone number) because the "integrity of the 911 database relies on accurate customer account information..." 911 Order at 3.

Simply stated, the Petition asks us to declare that neither Section 364.24, Florida Statutes, nor confidentiality concerns prohibit BellSouth from giving the same 911-related information to counties concerning the ALECs BellSouth collects and remits 911 fees for as those ALECs would be required to give to counties if they did their own 911 fee collecting and remitting themselves.

DISCUSSION

We grant BellSouth's petition to declare that Section 364.24 does not prohibit BellSouth from furnishing to counties the identity of resale ALECs for whom BellSouth collects 911 fees and the amount collected. Section 364.24(2), Florida Statutes, provides, in pertinent part:

Any officer or person in the employ of any telecommunications company shall not intentionally

disclose customer account records except as authorized by the customer or as necessary for billing purposes, or required by subpoena, court order, other process of court, or as otherwise allowed by law. [e.s.]

Section 364.24(2), Florida Statutes, provides two express exemptions from the prohibition against disclosure by telephone company personnel of customer account records that are relevant to this matter. First, the request by the ALEC that the LEC perform the function of collecting and remitting the ALEC's 911 fees necessarily implies authorization to report the same information that the ALEC would be required to report to counties if it did its own 911 fee collecting and remitting. Otherwise, for any practical purpose, the LEC would be unable to accede to the ALEC's request to collect and remit the fees.^{1,2} Moreover, the reporting of the information to counties is required by the 911 Order, therefore triggering the "otherwise allowed by law" exemption in Section 364.24(2), Florida Statutes. Accordingly, the LEC should report each individual ALEC's 911 information to counties and provide notice to each ALEC that its 911 information has been reported.

We also grant BellSouth's petition to declare that information concerning the identity of each ALEC and the amount of 911 fees remitted by each ALEC is non-confidential. As noted by BellSouth, we found in the 911 Order that

the 911 fees currently remitted are derived directly from access line information, and, therefore, would not be confidential anyway. [e.s.]

911 Order, p. 6.

¹ The only exception would be in the case, not specified in the petition, where the ALEC arranged to report the required information itself.

² LEC's could, of course, include express authorization by ALECs as part of the agreement to perform the 911 fee collecting and remitting service.

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This non-confidential rationale encompasses expressly both the identity of the ALEC for whom the fees are collected and the amount remitted.

In view of the above, it is

ORDERED by the Florida Public Service Commission that BellSouth Telecommunications, Inc.'s Petition for Declaratory Statement is granted. It is further

ORDERED that this docket be closed.

By ORDER of the Florida Public Service Commission this 1st day of October, 2001.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

(S E A L)

RCB

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 the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) 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 and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.