

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into
pricing of unbundled network
elements.

DOCKET NO. 990649-TP
ORDER NO. PSC-01-2493-CFO-TP
ISSUED: December 21, 2001

ORDER GRANTING REQUEST FOR CONFIDENTIAL TREATMENT
OF DOCUMENT NO. 12002-00 (CROSS-REFERENCED DOCUMENT NO. 10917-00)

On December 10, 1998, in Docket No. 981834-TP, the Florida Competitive Carriers Association (FCCA), the Telecommunications Resellers, Inc. (TRA), AT&T Communications of the Southern States, Inc. (AT&T), MCIMetro Access Transmission Services, LLC (MCIMetro), WorldCom Technologies, Inc. (WorldCom), the Competitive Telecommunications Association (Comptel), MGC Communications, Inc. (MGC), Intermedia Communications Inc. (Intermedia), Supra Telecommunications and Information Systems (Supra), Florida Digital Network, Inc. (Florida Digital Network), and Northpoint Communications, Inc. (Northpoint) (collectively, "Competitive Carriers") filed their Petition of Competitive Carriers for Commission Action to Support Local Competition in BellSouth's Service Territory. Among other matters, the Competitive Carriers' Petition asked that this Commission set deaveraged unbundled network element (UNE) rates.

On May 26, 1999, this Commission issued Order No. PSC-99-1078-PCO-TP, granting in part and denying in part the Competitive Carriers' petition. Specifically, the Commission granted the request to open a generic UNE pricing docket for the three major incumbent local exchange providers, BellSouth Telecommunications, Inc. (BellSouth), Sprint-Florida, Incorporated (Sprint), and GTE Florida Incorporated (GTEFL). Accordingly, this docket was opened to address the deaveraged pricing of UNEs, as well as the pricing of UNE combinations and nonrecurring charges.

By Order No. PSC-99-1397-PCO-TP, issued July 20, 1999, the procedures for this docket were established and the controlling dates set. A Second Revised Order on Procedure, Order No. PSC-00-0540-PCO-TP, was issued on March 16, 2000, which set forth new filing dates and also the newly refined issues to be addressed in this proceeding. By Order No. PSC-00-2015-PCO-TP, issued June 8, 2000, the filing dates were extended and the procedure for this case was further modified. Pursuant to these Orders, Phase I was

DOCUMENT NUMBER DATE

15939 DEC 21 2001

FPSC-COMMISSION CLERK

ORDER NO. PSC-01-2493-CFO-TP
DOCKET NO. 990649-TP
PAGE 2

set for hearing July 17-19, 2000, and Phase II was set for hearing September 19-22, 2000.

On September 25, 2000, BellSouth filed a Request for Confidential Classification of its response to Staff's Eighth Set of Interrogatories, No. 145, and Ninth Request for Production of Documents, Nos. 78, 81, and 85 (Document No. 12002-00 and cross-referenced Document No. 10917-00). BellSouth explains that the information contained in these responses includes vendor-specific pricing information, confidential business information and customer proprietary information. BellSouth maintains that, if disclosed, this information could be used to impair its ability to compete. BellSouth contends that it treats this information as confidential and that it has not otherwise been disclosed.

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, BellSouth asks that the pages and lines identified in Attachment A to this Order, which is attached and incorporated herein, should be given confidential treatment for the reasons set forth in Attachment A. BellSouth contends that this information constitutes either trade secrets or competitive business information which should be protected.

Section 364.183(3), Florida Statutes, in pertinent part, provides:

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 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 material described herein is proprietary business information in accordance with Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. Disclosure of this information could be detrimental to BellSouth's operations, could impair BellSouth's ability to compete, and its ability to contract for goods and services. As such, BellSouth's Request for Confidential Classification regarding Document No. 12002-00 (cross-referenced Document No. 10917-00) is hereby granted.

Based on the foregoing, it is therefore

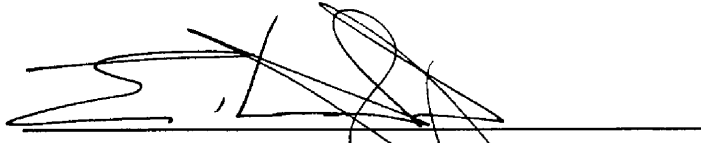
ORDERED by Chairman E. Leon Jacobs, Jr., as Prehearing Officer, that BellSouth Telecommunications, Inc.'s Request for Specified Confidential Classification filed on September 25, 2000, addressing Document No. 12002-00 (cross-referenced Document No. 10917-00) is hereby granted.

ORDERED that pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, the 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.

ORDER NO. PSC-01-2493-CFO-TP
DOCKET NO. 990649-TP
PAGE 4

By ORDER of Chairman E. Leon Jacobs, Jr. as Prehearing Officer, this 21st Day of December, 2001.



E. LEON JACOBS, JR.
Chairman and Prehearing Officer

(S E A L)

BK

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 the Commission Clerk and Administrative Services, in the form

ORDER NO. PSC-01-2493-CFO-TP

DOCKET NO. 990649-TP

PAGE 5

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.

**BellSouth Telecommunications, Inc.
FPSC Docket No. 990649-TP
Request for Confidential Classification
Page 1 of 4
9/22/00**

**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELL SOUTH'S
RESPONSE TO THE STAFF'S EIGHTH SET OF INTERROGATORIES (ITEM
NO. 145) AND NINTH REQUEST FOR PRODUCTION OF DOCUMENTS (POD
NOS. 81 AND 85) FILED SEPTEMBER 1, 2000 IN FLORIDA DOCKET NO.
990649-TP**

Explanation of Proprietary Information

1. This information contains vendor specific information, and/or, vendor specific prices negotiated by BellSouth. Public disclosure of this information would impair BellSouth's ability to contract for goods and services on favorable terms. 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 exempt from the Open Records Act.
2. This information contains competitive business information. This information if released would be unfair to BellSouth for it would allow the competition to have free access to information which was developed at an expense to BellSouth. Competitors would then have an advantage in bidding for such business since they would have few, if any, expenses such as research and development to recover, and would bid below BellSouth's cost level. Accordingly, this information is entitled to confidential classification pursuant to Florida Statutes Section 364.183.
3. This information reflects BellSouth's business strategies. BellSouth's competitors can use this information to develop their own business strategies. Thus, the disclosure of this information to BellSouth's competitors would impair BellSouth's ability to compete and is entitled to confidential classification pursuant to Section 364.183(3)(a) and (3)(e), Florida Statutes. In addition, this information is valuable as it is used by BellSouth in conducting its business and BellSouth strives to keep it secret. Therefore, this information is a trade secret which should be classified as proprietary, confidential business information exempt from the Open Records Act.

ATTACHMENT A

ORDER NO. PSC-01-2493-CFO-TP
DOCKET NO. 990649-TP
PAGE 7

BellSouth Telecommunications, Inc.
FPSC Docket No. 990649-TP
Request for Confidential Classification
Page 2 of 4
9/22/00

**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S
RESPONSE TO THE STAFF'S EIGHTH SET OF INTERROGATORIES (ITEM
NO. 145) AND NINTH REQUEST FOR PRODUCTION OF DOCUMENTS (POD
NOS. 81 AND 85) FILED SEPTEMBER 1, 2000 IN FLORIDA DOCKET NO.
990649-TP**

Interrogatory No. 145

<u>Location</u>	<u>Reason</u>
RESPONSE Lines a and b	1

POD NO. 81

Attachment No. 1

<u>Page No.</u>	<u>Location</u>	<u>Reason</u>
Pgs 1-17	Entire Page	3
Page 21-23	Residence, Business Total Columns	2

ATTACHMENT A

ORDER NO. PSC-01-2493-CFO-TP
DOCKET NO. 990649-TP
PAGE 8

BellSouth Telecommunications, Inc.
FPSC Docket No. 990649-TP
Request for Confidential Classification
Page 3 of 4
9/22/00

**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S
RESPONSE TO THE STAFF'S EIGHTH SET OF INTERROGATORIES (ITEM
NO. 145) AND NINTH REQUEST FOR PRODUCTION OF DOCUMENTS (POD
NOS. 81 AND 85) FILED SEPTERMBER 1, 2000 IN FLORIDA DOCKET NO.
990649-TP**

Attachment No. 2

<u>Page No.</u>	<u>Location</u>	<u>Reason</u>
Pgs 1-2	Entire Page	1
Pg 3	Space marked Redacted	1
Pgs 4-5	All Prices	1
Pg 6	Price/Description Col	1
Pgs 9-13	All Prices	1
Pgs 14-16	Description/Price Col	1
Pgs 17-23	All Prices	1

Attachment No. 9

<u>Page No.</u>	<u>Location</u>	<u>Reason</u>
Pgs 4-6	Entire Page	2
Pg 8	Contractor Hrly Rate	2
Pgs 32-34	Entire Page	2
Pgs 36-38	Entire Page	2
Pg 40	Contractor Hrly Rate	2
Pg 65	Jan Column	2

ATTACHMENT A

ORDER NO. PSC-01-2493-CFO-TP
DOCKET NO. 990649-TP
PAGE 9

BellSouth Telecommunications, Inc.
FPSC Docket No. 990649-TP
Request for Confidential Classification
Page 4 of 4
9/22/00

**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S
RESPONSE TO THE STAFF'S EIGHTH SET OF INTERROGATORIES (ITEM
NO. 145) AND NINTH REQUEST FOR PRODUCTION OF DOCUMENTS (POD
NOS. 81 AND 85) FILED SEPTEMBER 1, 2000 IN FLORIDA DOCKET NO.
990649-TP**

Attachment No. 15

<u>Page No.</u>	<u>Location</u>	<u>Reason</u>
Pg 2	Lines 4-8	1

POD NO. 85

<u>Location</u>	<u>Reason</u>
Entire Document	1,2 and 3