

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into
pricing of unbundled network
elements.

DOCKET NO. 990649-TP
ORDER NO. PSC-01-2508-CFO-TP
ISSUED: December 21, 2001

ORDER GRANTING REQUEST FOR CONFIDENTIAL TREATMENT
OF DOCUMENT NO. 14218-00 (CROSS-REFERENCED DOCUMENT NOS. 13824-00
and 13021-00)

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

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

On November 2, 2000, BellSouth filed a Request for Confidential Classification of Hearing Exhibit 151 identified at hearing as an exhibit to the deposition of Joseph Riolo with the title RL96-02-26BT (Document No. 14218-00 and cross-referenced Document Nos. 13824-00 and 13021-00). BellSouth contends that this exhibit contains confidential business information that, if disclosed, would give its competitors an undue advantage in future negotiations. BellSouth maintains 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 contends that if the information in Exhibit 151 is released, competitors will have competitive information developed at great expense by BellSouth. BellSouth's competitors will then be able to use this information to their advantage in the bidding process, particularly since they will not have had to expend any moneys to obtain the information. Thus, BellSouth contends that the competitors may more easily undercut BellSouth's bids. This, argues BellSouth, would harm BellSouth's ability to compete. Therefore, BellSouth asks that Exhibit 151, in its entirety, be granted confidential classification.

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

The term "proprietary confidential business information" means information, regardless of form

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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. 14218-00 (cross-referenced Document Nos. 13824-00 and 13021-00) 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 November 2, 2000, addressing Document No. 14218-00 (cross-referenced Document Nos. 13824-00 and 13021-00) 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.

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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

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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 the Commission Clerk and Administrative Services, in the form

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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.