

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into
pricing of unbundled network
elements (BellSouth track).

DOCKET NO. 990649A-TP
ORDER NO. PSC-02-0093-CFO-TP
ISSUED: January 16, 2002

ORDER GRANTING REQUESTS FOR CONFIDENTIAL TREATMENT
OF DOCUMENT NO. 12160-01 (CROSS-REFERENCED DOCUMENT NO. 11128-01)
AND
DOCUMENT NO. 13110-01 (CROSS REFERENCED DOCUMENT NO. 12002-01)

On May 25, 2001, this Commission issued its Final Order on Rates for Unbundled Network Elements Provided by BellSouth (Phases I and II), Order No. PSC-01-1181-FOF-TP. Furthermore, we ordered BellSouth to refile, within 120 days of the issuance of the Order, revisions to its cost study addressing xDSL-capable loops, network interface devices, and cable engineering and installation. The parties to the proceeding were also ordered to refile within 120 days of the issuance of the Order, proposals addressing network reliability and security concerns as they pertain to access to subloop elements. Order No. PSC-01-1904-PCO-TP, issued September 24, 2001, and Order No. PSC-01-2189-PCO-TP, issued November 8, 2001, and Order No. PSC-01-2399-PCO-TP, issued December 11, 2001, established the procedure for the hearing regarding BellSouth's 120-day filing.

On September 26, 2001, BellSouth filed a Request for Confidential Classification of its responses to Interrogatory Nos. 2 and 4, and Request for Production, No. 1, of MCI WorldCom, Inc. and AT&T Communications of the Southern States, Inc.'s First Joint Request for Production of Documents and their First Joint Set of Interrogatories to BellSouth (Document No. 12160-01 and cross-referenced Document No. 11128-01). BellSouth contends that its responses contain vendor-specific pricing and information, as well as confidential business information. BellSouth also contends that this information has not otherwise been disclosed, and that BellSouth treats this information as confidential.

On October 15, 2001, BellSouth filed a Request for Confidential Classification for refiled cost studies filed on September 24, 2001 (Document No. 13110-01 and cross referenced Document No. 12002-01). Similarly, BellSouth argues that this response contains vendor-specific pricing, customer proprietary information, and confidential business information. BellSouth

DOCUMENT NUMBER-DATE

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contends that the release of this information would provide its competitors with an unfair advantage in future negotiations, that it has not otherwise been disclosed, and that BellSouth treats this information as confidential.

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, with regard to the responses to Interrogatory Nos. 2 and 4, and Request for Production, No. 1, of MCI WorldCom, Inc. and AT&T Communications of the Southern States, Inc.'s First Joint Request for Production of Documents and their First Joint Set of Interrogatories to BellSouth, filed September 26, 2001, BellSouth contends that the pages and columns identified in Attachment A, which is attached and incorporated herein, should be protected for the reasons also set forth in Attachment A.

For the portions of the refiled cost studies filed September 24, 2001, BellSouth contends that the CD-ROM files identified in Attachment B, which is attached and incorporated herein, should be protected for the reasons also set forth in Attachment B.

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. Also, any customer specific information should be protected pursuant to Section 364.24(2), Florida Statutes. As such, BellSouth's Requests for Confidential Classification regarding Document No. 12160-01 (cross-referenced Document No. 11128-01) and Document No. 13110-01 (cross referenced Document No. 12002-01) respectively, are hereby granted. 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.

Based on the foregoing, it is therefore

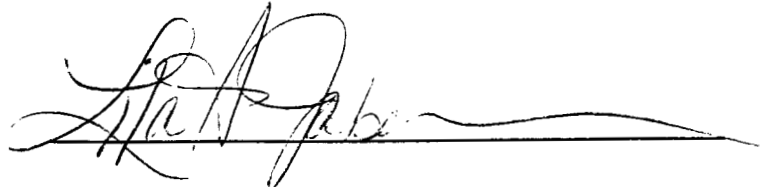
ORDERED by Chairman Lila A. Jaber, as Prehearing Officer, that BellSouth Telecommunications, Inc.'s Requests for Specified Confidential Classification addressing Document No. 12160-01 (cross-referenced Document No. 11128-01) and Document No. 13110-01 (cross referenced Document No. 12002-01), respectively, are hereby granted. It is further

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

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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 Lila A. Jaber, as Prehearing Officer, this 16th Day of January, 2002.



LILA A. JABER
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

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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 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 RESPONSE
TO AT&T AND MCI'S JOINT FIRST REQUEST FOR PRODUCTION OF
DOCUMENTS INTERROGATORY NOS. 2 AND 4 AND REQUEST FOR
PRODUCTION, ITEM NO. 1 FILED SEPTEMBER 6, 2001 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. If this information were publicly disclosed, it would impair BellSouth's ability to negotiate favorable discounts in the future. Accordingly, this information is entitled to confidential classification pursuant to Section 364.183 Florida Statute and is exempt from the Open Records Act.
2. This material is proprietary and confidential business information of a technical nature used by BellSouth in conducting its business, and not commonly known by or available to the public. BellSouth derives economic value from this information not being generally known to, and not being readily ascertainable by competitors who can obtain economic value from its disclosure. Specifically, BellSouth's internal procedures for Scheduling and Pricing of UNE provisioning.

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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S RESPONSE
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Interrogatory No. 2

<u>Page No.</u>	<u>Reason</u>
Column Titled "Price as of 8/28"	1

Interrogatory No. 4

<u>Page No.</u>	<u>Reason</u>
Page 1, Column 1999	2
Page 1, Column 2000	2
Page 1, Column 2001	2
Pages 2-37, Columns "Job," "sti" and "hrs"	2

POD No. 2

<u>Page No.</u>	<u>Reason</u>
Entire Document	2

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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF COMPLIANCE COST
STUDY (1 CD-ROM) AND THE BSTLM LOOP MODEL (4 CD-ROMs) AS FILED
ON SEPTEMBER 24, 2001 IN FLORIDA PUBLIC SERVICE
COMMISSION DOCKET 990649-TP**

Explanation of Proprietary Information

- 1 This information reflects 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, this information should be classified as proprietary, confidential business information pursuant to Section 364.183(3)(d) Florida Statutes and is exempt from the Open Records Act.

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BASIS FOR REQUEST

Compliance Filing CD - Proprietary Files:

ADUF.XLS	1
DS1_CALC.XLS	1
DSLAM.XLS	1
EODUF.XLS	1
FL-NID.XLS	1
FLST_SST_P.XLS	1
FLUNTW.XLS	1
FL-USL.XLS	1
IO_VG2.XLS	1
IO_VG4.XLS	1
MDF_FUND.XLS	1
ODUF.XLS	1

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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF COMPLIANCE COST
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CONTINUED

BSTLM (CD 1 of 4) – Entire CD	1
BSTLM (CD 2 of 4) – Entire CD	1
BSTLM (CD 3 of 4) – Entire CD	1
BSTLM (CD 4 of 4) – Entire CD	1