

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by BellSouth Telecommunications, Inc. for waiver of Rules 25-4.107, 25-4.108, and 25-4.113, F.A.C., which require provision of basic telecommunications service to certain locations and persons.

DOCKET NO. 000028-TL
ORDER NO. PSC-02-0597-CFO-TL
ISSUED: May 1, 2002

ORDER GRANTING REQUEST FOR
SPECIFIED CONFIDENTIAL CLASSIFICATION OF DOCUMENT NO. 02506-02
(CROSS-REFERENCE DOCUMENT NO.03380-02)

On January 10, 2000, the Commission received a petition from BellSouth Telecommunications, Inc. (BellSouth) seeking a waiver of Rules 25-4.107, 25-4.108 and 25-4.113, Florida Administrative Code, pursuant to Section 120.542, Florida Statutes. On February 4, 2002, an administrative hearing was held in this matter. On March 4, 2002, BellSouth filed its post-hearing brief which BellSouth claimed contained confidential information. On March 22, 2002, BellSouth filed its Request for Specified Confidential Classification for portions of BellSouth's Post-Hearing Brief pursuant to Rule 25-22.006, Florida Administrative Code.

In its support of its Request, BellSouth states that on March 4, 2002, along with its post-hearing brief it filed a Notice of Intent to Request Specific Confidential Classification for portions of its post-hearing brief which contain information that is considered confidential and proprietary to BellSouth. BellSouth asserts that the information is proprietary to BellSouth and includes customer specific and confidential business information. BellSouth states that pursuant to Section 364.183, Florida Statutes, such information is classified as proprietary.

BellSouth also asserts that Section 364.24(2), Florida Statutes, prohibits public disclosure of customer account information. BellSouth contends that this information is valuable and it strives to keep it secret. BellSouth asserts that such information should be classified as proprietary, confidential business information pursuant to 364.183(3)(e), Florida Statutes,

DOCUMENT NUMBER-DATE
04753 MAY-18
FPSC-COMMISSION CLERK

and should be held exempt from the public disclosure requirements of Section 119.07, Florida Statutes.

BellSouth further states that it has treated and intends to continue to treat the information for which confidential classification is sought as private, and this information has not been generally disclosed. Therefore, BellSouth requests that an order be issued declaring the information described in its Request to be confidential, proprietary business information that is not subject to public disclosure.

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.

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 BellSouth seeks confidential classification is information that, if disclosed, would cause harm to BellSouth's ratepayers. Thus, this information qualifies as

ORDER NO. PSC-02-0597-CFO-TL
DOCKET NO. 000028-TL
PAGE 3

proprietary confidential business information under Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. Also, any customer-specific information should be protected in accordance with Section 364.24, Florida Statutes. As such, BellSouth's request for confidential classification is hereby granted.

Based on the foregoing, it is

ORDERED by Chairman Lila A. Jaber, as Prehearing Officer, that BellSouth Telecommunications, Inc.'s Request for Specified Confidential Classification of Document No. 02506-02 (cross-reference Document No. 03380-02) 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

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 1st Day of May, 2002.



LILA A. JABER
Chairman and Prehearing Officer

(S E A L)

PAC

ORDER NO. PSC-02-0597-CFO-TL
DOCKET NO. 000028-TL
PAGE 4

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 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.