

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by XO Florida,  
Inc. for arbitration of  
unresolved issues with BellSouth  
Telecommunications, Inc.

DOCKET NO. 011119-TP  
ORDER NO. PSC-02-0599-CFO-TP  
ISSUED: May 1, 2002

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION  
OF DOCUMENT NO. 02869-02

On March 18, 2002, BellSouth Telecommunications, Inc. (BellSouth) filed a request for confidential classification. In its request, BellSouth seeks confidential treatment of its responses to XO Florida Inc.'s First Request for Production of Documents, No. 1 (Document No. 02869-02). Attachment A, attached hereto and incorporated herein, contains a detailed justification of the confidentiality of the information at issue. BellSouth asserts that it treats this information as confidential and that it has not otherwise been released.

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, 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

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FPSC-COMMISSION CLERK

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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 in Attachment A is proprietary business information in accordance with Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. Disclosure of this information would allow BellSouth's competitors to have access to certain intellectual property which was developed at significant expense to BellSouth. This information would help BellSouth's competitor's develop their own strategies without the burden and expense of developing the property for themselves. As such, BellSouth's Request for Confidential Classification of Document No. 02869-02 is hereby granted.

Based on the foregoing, it is

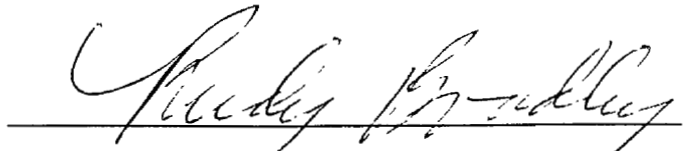
ORDERED by Rudolph "Rudy" Bradley, as Prehearing Officer, that BellSouth Telecommunications Inc.'s Request for Confidential Classification of Document No. 02869-02, as set forth in Attachment A is hereby granted and incorporated by reference into this Order. It is further

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

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 Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this 1st Day of May, 2002.



RUDOLPH "RUDY" BRADLEY  
Commissioner and Prehearing Officer

( S E A L )

JKF

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,

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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.

**ATTACHMENT A**

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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S RESPONSE TO  
XO's FIRST REQUEST FOR PRODUCTION OF DOCUMENTS, ITEM ONE FILED  
MARCH 18, 2002, IN FLORIDA DOCKET NO. 011119-TP**

**Explanation of Proprietary Information**

1. The information requested contains practices/procedures utilized by BellSouth to conduct business. This information, if released, would allow BellSouth's competitors to have free access to certain intellectual property that was developed at significant expense to BellSouth. BellSouth's competitors can use this information to develop their own strategies without the burden and expense of developing this property for themselves. Thus the disclosure of this information to BellSouth's competitors would impair BellSouth's ability to compete and the information is entitled to confidential classification pursuant to Section 364.183, Florida Statutes. In addition, this information, which BellSouth keeps as trade secrets, is valuable because BellSouth uses it in conducting its business. Therefore, this information should be classified as proprietary, confidential business information exempt from the Open Records Act.

**POD ITEM 1**

<u>Location</u>	<u>Reason</u>
Attachment 1, Entire Document	1