

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 990649A-TP
ORDER NO. PSC-02-0659-CFO-TP
ISSUED: May 14, 2002

ORDER GRANTING REQUEST FOR CONFIDENTIAL TREATMENT
OF DOCUMENT NO. 03004-02 (CROSS-REFERENCED DOCUMENT NO. 02487-02)

An administrative hearing was conducted on January 30-31, 2002, for us to consider BellSouth's revisions to its cost study submitted as part of its required 120-day filing, and related matters.

On March 14, 2002, BellSouth filed a Request for Confidential Classification of its Responses to Staff's Third Set of Interrogatories, Item Nos. 28(e) and 29 (Document No. 03004-02 and cross-referenced Document No. 02487-02), which BellSouth contends contain vendor-specific pricing, customer proprietary information, practices/procedures used by BellSouth conduct its business, and confidential business information. BellSouth 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, BellSouth seeks confidential classification for lines 1 - 13 of columns C, D, G, and H of its response to Item No. 28(e) and for its response to Item No. 29 in its entirety. BellSouth contends that the information contained in these documents identifies its costs to provide certain services.

DOCUMENT NUMBER-DATE

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BellSouth maintains that if this information is disclosed, competitors will have an unfair advantage in that they will know the price or rate below which BellSouth could not provide the identified service, thus enabling the competitor to more easily undercut BellSouth's prices. Therefore, BellSouth argues that the release of this information would impair BellSouth's ability to compete, and as such it is entitled to confidential classification pursuant to Section 364.183, Florida Statutes. BellSouth emphasizes that it treats this information as confidential and that it has not otherwise been disclosed.

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 and could impair BellSouth's ability to compete. As such, BellSouth's Request for Confidential Classification regarding Document No. 03004-02 (cross-referenced Document No. 02487-02) is 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.

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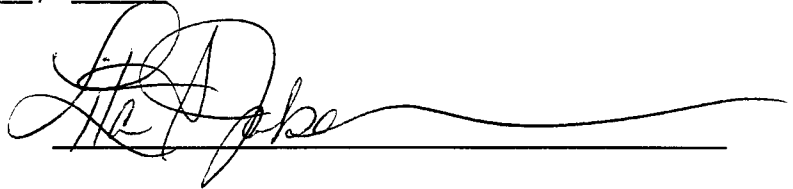
Based on the foregoing, it is therefore

ORDERED by Chairman Lila A. Jaber, as Prehearing Officer, that BellSouth Telecommunications, Inc.'s Request for Specified Confidential Classification filed on March 14, 2002, addressing Document No. 03004-02 (cross-referenced Document No. 02487-02) is 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

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 14th Day of May, 2002.

A handwritten signature in black ink, appearing to read 'Lila A. Jaber', is written over a horizontal line. The signature is stylized and cursive.

LILA A. JABER
Chairman and Prehearing Officer

(S E A L)

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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 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.