

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by BellSouth
Telecommunications, Inc. for
arbitration of certain issues in
interconnection agreement with
Supra Telecommunications and
Information Systems, Inc.

DOCKET NO. 001305-TP
ORDER NO. PSC-02-0845-CFO-TP
ISSUED: June 19, 2002

ORDER ON REQUESTS FOR CONFIDENTIAL CLASSIFICATION FOR DOCUMENT
NO. 13013-01 AND CROSS-REFERENCED DOCUMENT NO. 11886-01, DOCUMENT
NO. 13210-01 AND CROSS-REFERENCED DOCUMENT NO. 12155-01, DOCUMENT
NO. 13681-01 AND CROSS-REFERENCED DOCUMENT NO. 12814-01

On September 1, 2000, BellSouth Telecommunications, Inc. (BellSouth) filed a petition for arbitration of certain issues in an interconnection agreement with Supra Telecommunications and Information Systems, Inc. (Supra). Supra filed its response, and this matter was set for hearing. An administrative hearing was held on September 26-27, 2001.

On October 12, 2001, BellSouth filed a Request for Confidential Classification for Late-Filed Deposition Exhibits JK-2 for Jerry Kephart (Document No. 13013-01 and cross-referenced Document No. 11886-01). Therein, BellSouth maintains that the exhibit contains confidential business information that is proprietary to BellSouth. BellSouth intends to continue to treat the information as private, and it strives to keep it secret. BellSouth's position is further specified in Attachment A, which is attached and incorporated in this Order.

On October 17, 2001, BellSouth filed a Request for Specified Confidential Classification of BellSouth's Response to Supra's 2nd Request for Production of Documents, No. 12, filed September 26, 2001 (Document No. 13210-01 and cross-referenced Document No. 12155-01). BellSouth maintains that the Response contains confidential business information that is proprietary to BellSouth. BellSouth intends to continue to treat the information as private, and it strives to keep it secret. BellSouth's position is further specified in Attachment B, which is attached and incorporated in this Order.

Thereafter, on October 29, 2001, BellSouth filed a Request for Confidential Classification of Late-Filed Hearing Exhibits 8 and 17

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(Document No. 13681-01 and cross-referenced Document No. 12814-01). Again, BellSouth's position is that this exhibit contains confidential business information that is proprietary to BellSouth. BellSouth intends to continue to treat the information as private, and it strives to keep it secret. BellSouth's position is further specified in Attachment C, which is attached and incorporated in this Order.

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 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.

Further, Section 364.24(2), Florida Statutes, in pertinent part, provides:

Any officer or person in the employ of any telecommunications company shall not intentionally

disclose customer account records except as authorized by the customer or as necessary for billing purposes, or required by subpoena, court order other process of court, or as otherwise allowed by law.

Upon consideration, the exhibits and response for which BellSouth requests confidentiality appear to meet the definition of proprietary confidential business information in Section 364.183(3), Florida Statutes. This information shall, therefore, be granted confidential classification.

Based on the foregoing, it is therefore

ORDERED by Commissioner Michael A. Palecki, as Prehearing Officer, that BellSouth Telecommunications, Inc.'s Request for Confidential Classification for Late-Filed Deposition Exhibits JK-2 for Jerry Kephart, Document No. 13013-01 and cross-referenced Document No. 11886-01, is granted. It is further

ORDERED that BellSouth Telecommunications, Inc.'s Request for Specified Confidential Classification of BellSouth's Response to Supra's 2nd Request for Production of Documents, No. 12, filed September 26, 2001, Document No. 13210-01 and cross-referenced Document No. 12155-01, is granted. It is further

ORDERED that BellSouth Telecommunications, Inc.'s Request for Confidential Classification of Late-Filed Hearing Exhibits 8 and 17, Document No. 13681-01 and cross-referenced Document No. 12814-01, is 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 documents specified herein shall expire eighteen (18) months from the date of issuance of this Order in the absence of a renewed request for confidentiality pursuant to Section 364.183. 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 Michael A. Palecki, as Prehearing Officer, this 19th Day of June, 2002.



MICHAEL A. PALECKI
Commissioner and Prehearing Officer

(S E A L)

WDK

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.

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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF THE LATE FILED
DEPOSITION EXHIBIT NO. JK-2 OF JERRY KEPHART, FILED SEPTEMBER 21,
2001 IN FLORIDA DOCKET NO. 001305-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 which 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 it is used by BellSouth in conducting its business. Therefore, this information should be classified as proprietary, confidential business information exempt from the Open Records Act.

ATTACHMENT A

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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF THE LATE FILED
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ATTACHMENT B

**BellSouth Telecommunications, Inc.
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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S RESPONSE
TO SUPRA'S 2ND REQUEST FOR PRODUCTION OF DOCUMENTS, NO. 12, FILED
SEPTEMBER 26, 2001 IN FLORIDA DOCKET NO. 001305-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 which 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 it is used by BellSouth in conducting its business. Therefore, this information should be classified as proprietary, confidential business information exempt from the Open Records Act.

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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S RESPONSE
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ATTACHMENT C

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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S LATE FILED
HEARING EXHIBITS 8 AND 17 FILED OCTOBER 8, 2001 IN FLORIDA DOCKET NO.
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LATE FILED HEARING EXHIBIT NO. 8

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LATE FILED HEARING EXHIBIT NO. 17

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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELL SOUTH'S LATE FILED
HEARING EXHIBITS 8 AND 17 FILED OCTOBER 8, 2001 IN FLORIDA DOCKET NO.
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Explanation of Proprietary Information

1. This information contains substantive references to a commercial arbitration award dated June 5, 2001. Both BellSouth and Supra are bound by the existing Interconnection Agreement to keep the results of the arbitration confidential. Since the public release of this information is contractually prohibited, it is entitled to confidential classification pursuant to Section 364.183, Florida Statutes.
2. 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 which 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 it is used by BellSouth in conducting its business. Therefore, this information should be classified as proprietary, confidential business information exempt from the Open Records Act.