

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of ALEC, Inc.  
for enforcement of  
interconnection agreement with  
Sprint-Florida, Incorporated and  
request for relief.

DOCKET NO. 020099-TP  
ORDER NO. PSC-02-1212-CFO-TP  
ISSUED: September 5, 2002

ORDER GRANTING IN PART, AND DENYING IN PART, SPRINT-FLORIDA  
INCORPORATED'S REQUEST FOR CONFIDENTIAL CLASSIFICATION AND MOTION  
FOR PROTECTIVE ORDER FOR DOCUMENT NO.08674-02

Pursuant to Rule 25-22.006(4), Florida Administrative Code, Sprint-Florida, Incorporated (Sprint), on August 23, 2002, requested confidential treatment for information contained in Document No. 08674-02. This document was submitted through discovery in this docket, a complaint of ALEC, Inc. for enforcement of an interconnection agreement with Sprint.

Documents submitted to governmental agencies in Florida are public records. The only exceptions 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 is based on the concept that government should operate in the "sunshine." Rule 25-22.006(4), 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, provides the following definition for proprietary confidential business information:

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

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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. The term includes, but is not limited to:

- (a) Trade secrets.
- (b) Internal auditing controls and reports of internal auditors.
- (c) Security measures, systems, or procedures.
- (d) Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the company or its affiliates to contract for goods or services on favorable terms.
- (e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information.
- (f) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities.

Specifically, Sprint seeks confidential treatment for Hearing Exhibit No. 7--Settlement Agreement between Sprint and ALEC. Sprint seeks confidential treatment for the entire document. Sprint argues that the information for which the request is submitted is highly proprietary contractual, competitive or valuable information and thus meets the definition of confidential proprietary information pursuant to Section 164.183(3), Florida Statutes.

Sprint further states that the subject information has not been publicly released and Sprint is required by contract to keep certain information confidential. While the parties mutually agreed to the agreement being entered into the record of the hearing involving the remaining areas of dispute between the two parties to the settlement agreement, Sprint argues that publication of the agreement outside of that forum would be harmful to the competitive interests of both parties, the disclosure of which would impair their competitive business.

While we agree that the settlement agreement is generally competitive information entitled to confidential classification, we believe there are two exceptions in this document that do not require confidential classification. Paragraphs 3 and 5 detail how the parties intend to implement the FCC's ISP Remand Order<sup>1</sup> with regard to intercarrier compensation for ISP-bound traffic on a going forward basis. We find this language to be an amendment to the Sprint/ALEC interconnection agreement. Section 252(e) of the Telecommunications Act of 1996 (the Act) requires any interconnection agreement to be filed with the State commission for approval. Section 252(h) of the Act requires states to make each agreement approved under Section 252(e) available for public inspection and copying. Incumbent LECs are required by Section 252(i) of the Act to make any interconnection, service, or network element provided under state approved agreement, available on the same terms, rates or conditions to any requesting telecommunications carrier. Hence, any claim of confidentiality under Section 364.183(3), Florida Statutes, must yield to Federal law and this language must be made public.

Accordingly, we deny in part Sprint's request for confidential classification and Motion for Protective Order with respect to paragraphs 3 and 5 of Document No. 08674-02, but grant Sprint's request for the remainder of the document. Sprint's motion for protective order will remain in effect for as long as this proceeding remains open.

Based upon the foregoing, it is

ORDERED by Commissioner Braulio L. Baez, as Prehearing Officer, that Sprint-Florida, Incorporated's Request for Confidential Classification and Protective Order of Document No. 08674-02 is hereby granted in part and denied in part, as described in the body of this Order. It is further

ORDERED that a protective order will remain in effect for as long as this proceeding remains open. It is further

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<sup>1</sup>In re: Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Order on Remand and Report Order, FCC 01-131, CC Dockets 96-98 and 99-68 (April 27, 2001) (ISP Remand Order).

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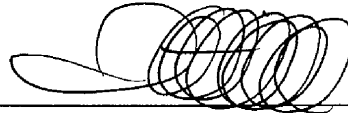
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ORDERED that in accordance with Rule 25-22.006(10), Florida Administrative Code, any material denied confidential classification by this Order shall be kept confidential until the time for filing an appeal has expired. It is further

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.

By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 5th Day of September, 2002.



FL BAEZ

BRAULIO L. BAEZ

Commissioner 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.

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.