

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for expedited review and cancellation of BellSouth Telecommunications, Inc.'s Key Customer promotional tariffs and for investigation of BellSouth's promotional pricing and marketing practices, by Florida Digital Network, Inc.

DOCKET NO. 020119-TP

In re: Petition for expedited review and cancellation of BellSouth Telecommunications, Inc.'s Key Customer promotional tariffs by Florida Competitive Carriers Association.

DOCKET NO. 020578-TP  
ORDER NO. PSC-02-1757-CFO-TP  
ISSUED: December 13, 2002

ORDER GRANTING BELL SOUTH'S REQUESTS FOR  
CONFIDENTIAL CLASSIFICATION OF DOCUMENT NOS. 04245-02,  
05250-02 (X-REF DOCUMENT NO. 04536-02), 06086-02,  
AND 06446-02 (EX-REF DOCUMENT NO. 05772-02)

On February 14, 2002, Florida Digital Network, Inc. (FDN) filed a Petition for Expedited Review and Cancellation of BellSouth Telecommunications, Inc.'s (BellSouth) Key Customer Promotional Tariffs and For An Investigation of BellSouth Telecommunications, Inc.'s Promotional Pricing and Marketing Practices (January tariff filing). On March 5, 2002, BellSouth filed its Response and Answer to FDN's Petition.

On June 25, 2002, the Florida Competitive Carriers Association (FCCA) filed a Petition for Expedited Review and Cancellation Of BellSouth's Key Customer Promotional Tariffs (June tariff filing) in Docket No. 020578-TP.

On July 15, 2002, BellSouth filed a Motion to Dismiss or, in the alternative, Response to the "Petition of the Florida Competitive Carriers Association (FCCA) for Expedited Review and Cancellation Of BellSouth Telecommunications Inc.'s Key Customer Promotional Tariffs."

DOCUMENT NUMBER-DATE

13604 DEC 13 02

FPSC-COMMISSION CLERK

FDN and the FCCA filed separate protests of Order No. PSC-02-0875-PAA-TP on July 19, 2002, each requesting an administrative hearing be convened in Docket No. 020119-TP. On July 22, 2002, the FCCA filed a Response to BellSouth's Motion to Dismiss. By Order No. PSC-02-1237-FOF-TP, issued September 9, 2002, BellSouth's Motion to Dismiss FCCA's complaint was denied and Docket Nos. 020119-TP and 020578-TP were consolidated for purposes of hearing. By Order No. PSC-02-1295-PCO-TP, issued September 23, 2002, the procedural and hearing dates were set for these dockets. The administrative hearing set in these dockets is scheduled for January 8-9, 2003.

On April 16, 2002, BellSouth filed a Request for Specified Confidential Classification of its Responses to Staff's First Request for Production of Documents Nos. 1, 2, 3 and portions of 4. (Document No. 04245-02). BellSouth maintains that the responses contain confidential business information that is proprietary to BellSouth. BellSouth has treated and 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.

BellSouth filed a Request for Specified Confidential Classification of its Response to Staff's Third Set of Interrogatories, No. 14 on May 15, 2002. (Document No. 05250-02 and cross-referenced Document No. 04536-02). BellSouth maintains that the responses contain confidential business information that is proprietary to BellSouth. BellSouth has treated and 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.

On June 11, 2002, BellSouth filed a Request for Specified Confidential Classification for BellSouth's Response to Staff's Third Request for Production of Documents Nos. 7 and 8 (Document No. 06086-02). Again, BellSouth states that the responses contain confidential business information that is proprietary to BellSouth. BellSouth has treated and 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.

In addition, on June 21, 2002, BellSouth filed a Request for Specified Confidential Classification for BellSouth's Supplemental Response to Staff's Third Request for Production of Documents No. 7 (Document No. 06446-02 and cross-referenced Document No. 05772-02). BellSouth's position is that the response contains confidential business information that is proprietary to BellSouth. BellSouth has treated and intends to continue to treat the information as private, and it strives to keep it secret. BellSouth's position is further specified in Attachment D, 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 responses 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 Braulio L. Baez, as Prehearing Officer, that BellSouth Telecommunications, Inc.'s Request for Specified Confidential Classification of its Responses to Staff's First Request for Production of Documents Nos. 1, 2, 3 and portions of 4, Document No. 04245-02, is granted. It is further

ORDERED that BellSouth Telecommunications, Inc.'s Request for Specified Confidential Classification of its Response to Staff's Third Set of Interrogatories, No. 14, Document No. 05250-02 and cross-referenced Document No. 04536-02, is granted. It is further

ORDERED that BellSouth Telecommunications, Inc.'s Request for Specified Confidential Classification of BellSouth's Response to Staff's Third Request for Production of Documents Nos. 7 and 8, Document No. 06086-02, is granted. It is further

ORDERED that BellSouth Telecommunications, Inc.'s Request for Specified Confidential Classification of BellSouth's Supplemental Response to Staff's Third Request for Production of Documents No. 7, Document No. 06446-02 and cross-referenced Document No. 05772-02, is granted. It is further

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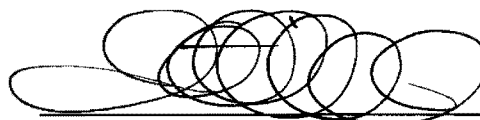
ORDERED that pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, any confidentiality granted to the documents specified herein shall expire eighteen (18) months from the date of issuance of this Order in the absence of a renewed request for confidentiality 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.

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 13th day of December, 2002.



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BRAULIO L. BAEZ  
Commissioner and Prehearing Officer

( S E A L )

LHD

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.

## ATTACHMENT A

BellSouth Telecommunications, Inc.  
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Request for Confidential Classification  
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### REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S RESPONSE TO STAFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS, ITEM NOS. 1-4, FILED APRIL 16, 2002, IN FLORIDA DOCKET NO. 020119-TP

#### Explanation of Proprietary Information

1. This information reflects BellSouth's costs to provide certain services and includes trade secrets, information concerning bids or other contractual data, as well as information relating to BellSouth's competitive interests. The public disclosure of this information would provide BellSouth's competitors with a competitive advantage in that they would know BellSouth's costs in providing certain services. Furthermore, the disclosure of this information would impair BellSouth's ability to contract for goods and services because its competitors will know BellSouth's pricing and cost information and any respective analysis. This information is valuable, it is used by BellSouth in conducting its business and BellSouth strives to keep it secret. Therefore, such information should be classified as proprietary, confidential business information pursuant to 364.183, Florida Statutes and is exempt from the Open Records Act.
2. This information is proprietary because it includes customer specific proprietary information. This information is also proprietary, because it contains proprietary business information relating to competitive interests and trade secrets for a third party vendor. The Commission has always zealously protected business proprietary information relating to customer specific information in order to protect the customer's privacy and prevent a competitor of the customer from obtaining an unfair advantage. This information is clearly confidential and proprietary under Florida Statutes, Section 364.24, Section 364.183 and Rule 25-22.006, Florida Administrative Code.

**ATTACHMENT A**

**BellSouth Telecommunications, Inc.**  
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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELL SOUTH'S RESPONSE  
TO STAFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS, ITEM  
NOS. 1-4, FILED APRIL 16, 2002, IN FLORIDA DOCKET NO. 020119-TP**

<u>Location</u>	<u>Reason</u>
<b><u>Production of Documents, Item Nos. 1-3</u></b>	
Entire documents	2
<b><u>Production of Document Item No. 4</u></b>	
<b><u>Attachment 1</u></b>	
Page 1, Lines 1-21, Columns H and I	1
Page 3, Lines 1-5, Columns A-J	1
Page 3, Lines 6-10, Columns B, D-J	1
Page 4, Line 1, Columns D, E, H, and I	1
Page 4, Line 2, Columns D, E, G, H, and I	1
Page 4, Line 3, Columns D, E, H, and I	1
Page 4, Lines 4-9, Columns D, E, H and I	1
Page 4, Lines 10-12, Columns D, E, G, H and I	1
Page 4, Line 13, Column D, E, H and I	1
Page 4, Line 14, Columns D, E, G, H and I	1
Page 4, Line 15-16, Columns D, E, H and I	1
Page 4, Line 17, Columns D, E, G, H and I	1
Page 4, Line 18, Columns D, E, H and I	1
Page 4, Line 19-20, Columns D, E, G, H and I	1
Page 4, Line 21-24, Columns D, E, H and I	1
Page 4, Line 25-26, Columns D, E, G, H and I	1
Page 4, Lines 27-28, Columns D, E, H and I	1
Page 4, Lines 29-31, Columns D, E, G, H and I	1
Page 4, Line 32-33, Columns D, E, H and I	1
Page 4, Line 34-37, Columns D, E, G, H and I	1
Page 4, Line 38-41, Columns D, E, H and I	1



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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S RESPONSE  
TO STAFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS, ITEM  
NOS. 1-4, FILED APRIL 16, 2002, IN FLORIDA DOCKET NO. 020119-TP**

<u>Location</u>	<u>Reason</u>
Page 4, Line 42, Columns D, E, G, H and I	1
Page 4, Line 43, Columns D, E, H and I	1
Page 5, Line 1-6, Columns D, E, F, G, H and I	1
Page 5, Line 7, Columns D, E, H and I	1
Page 5, Line 8, Columns D, E, G, H and I	1
Page 5, Line 9-17, Columns D, E, H and I	1
Page 5, Line 18, Columns D, E, F, G, H and I	1
Page 5, Line 19-20, Columns D, E, H and I	1
Page 5, Line 21-22, Columns D, E, F, G, H and I	1
Page 5, Line 23-25, Columns D, E, H and I	1
Page 5, Line 26-27, Columns D, E, G, H and I	1
Page 5, Line 28-29, Columns D, E, F, H and I	1
Page 5, Line 30-31, Columns D, E, F, G, H and I	1
Page 5, Line 32, Columns D, E, H and I	1
Page 5, Line 33-34, Columns D, E, F, G, H and I	1
Page 5, Line 35-36, Columns D, E, H and I	1
Page 5, Line 37-38, Columns D, E, F, G, H and I	1
Page 5, Line 39, Columns D, E, H and I	1
Page 5, Line 40-41, Columns D, E, F, G, H and I	1
Page 5, Line 42-43, Columns D, E, H and I	1
Page 5, Line 44, Columns D, E, F, G, H and I	1
Page 6, Line 1, Columns D-I	1
Page 6, Line 2, Columns D, E, H and I	1
Page 6, Line 3-6, Columns D-I	1
Page 6, Line 7-11, Columns D, E, H and I	1
Page 6, Line 12-13, Columns D-I	1
Page 6, Line 14-15, Columns, D, E, H and I	1
Page 6, Line 16, Columns D-I	1
Page 6, Line 17-18, Columns D, E, H and I	1
Page 6, Line 19, Columns D-I	1
Page 6, Line 20, Columns D, E, H and I	1

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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELL SOUTH'S RESPONSE  
TO STAFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS, ITEM  
NOS. 1-4, FILED APRIL 16, 2002, IN FLORIDA DOCKET NO. 020119-TP**

<u>Location</u>	<u>Reason</u>
Page 6, Line 21, Columns D-I	1
Page 6, Line 22, Columns D, E, H and I	1
Page 6, Line 23, Columns D-I	1
Page 6, Line 24, Columns D, E, H and I	1
Page 6, Line 25, Columns D-I	1
Page 6, Line 26, Columns D, E, H and I	1
Page 6, Line 27-32, Columns D-I	1
Page 6, Line 33, Columns D, E, H and I	1
Page 6, Line 34-35, Columns D-I	1
Page 6, Line 36, Columns D, E, H and I	1
Page 6, Line 37-44, Columns D-I	1
Page 6, Line 45, Column D, E, H and I	1
Page 7, Line 1, Column D-I	1
Page 7, Line 2-6, Columns D, E, H and I	1
Page 7, Line 7-8, Columns D-I	1
Page 7, Line 9-12, Columns D, E, H and I	1
Page 7, Line 13, Columns D-I	1
Page 7, Line 14, Columns D, E, H and I	1
Page 7, Line 15, Columns D-I	1
Page 7, Line 16-17, Columns D, E, H and I	1
Page 7, Line 18, Columns D-I	1
Page 7, Line 19, Columns D, E, H and I	1
Page 7, Lines 20-23, Columns D-I	1
Page 7, Line 24, Columns D, E, H and I	1
Page 7, Lines 25-28, Columns D-I	1
Page 7, Lines 29-31, Columns D, E, H and I	1
Page 7, Line 32, Columns D-I	1
Page 7, Line 33-38, Columns D, E, H and I	1
Page 7, Line 39-40, Columns D-I	1
Page 7, Line 41, Columns D, E, H and I	1
Page 7, Lines 42-44, Columns D-I	1

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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S RESPONSE  
TO STAFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS, ITEM  
NOS. 1-4, FILED APRIL 16, 2002, IN FLORIDA DOCKET NO. 020119-TP**

<u>Location</u>	<u>Reason</u>
Page 8, Lines 1-4, Columns D-I	1
Page 8, Lines 5-6, Columns D, E, H and I	1
Page 8, Line 7, Columns D-I	1
Page 8, Line 8, Columns D, E, H and I	1
Page 8, Line 9, Columns D-I	1
Page 8, Lines 10-12, Columns D, E, H and I	1
Page 8, Lines 13-15, Columns D-I	1
Page 8, Line 16, Columns D, E, H and I	1
Page 8, Lines 17-24, Columns D-I	1
Page 8, Lines 25-26, Columns D, E, H and I	1
Page 8, Lines 27-32, Columns D-I	1
Page 9, Lines 1-4, Columns C-H	1
Page 10, Lines 1-16, Columns C-H	1
Page 11, Lines 1-6, Columns C-H	1
Page 12, Lines 1-15, Columns C-J	1
Page 13, Lines 1-8, Columns C-H	1
Page 13, Lines 9-11, Columns C-G	1
Page 14, Lines 1-12, Columns C-H	1
Page 15, Lines 1-4, Columns C-H	1
Page 16, Lines 1-5, Columns D-J	1
Page 17, Lines 1-14, Columns C-F	1
Page 17, Lines 15-17, Columns C-H	1
Page 17, Line 18, Columns C-F	1
<u>Attachment 2</u>	
Page 31, Line 20	2
Page 32, Lines 24-28	1, 2
Page 33, Lines 1-16, Columns A-E	1
Page 34, Lines 1-14	1

**ATTACHMENT B**

BellSouth Telecommunications, Inc.  
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Request for Confidential Classification  
Page 1 of 2  
5/15/02

**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELL SOUTH'S RESPONSE TO  
STAFF'S THIRD SET OF INTERROGATORIES, ITEM NO. 14  
FILED MAY 15, 2002, IN FLORIDA DOCKET NO. 020119-TP**

**Explanation of Proprietary Information**

1. This information reflects BellSouth's costs to provide certain services and includes trade secrets, information concerning bids or other contractual data, as well as information relating to BellSouth's competitive interests. This information also reflects information regarding the manner in which BellSouth typically configures various business services, and other confidential business information. The public disclosure of this information would provide BellSouth's competitors with a competitive advantage in that they would know BellSouth's costs in providing certain services. Furthermore, the disclosure of this information would impair BellSouth's ability to contract for goods and services because its competitors will know BellSouth's pricing and cost information and any respective analysis. This information is valuable, it is used by BellSouth in conducting its business and BellSouth strives to keep it secret. Therefore, such information should be classified as proprietary, confidential business information pursuant to 364.183, Florida Statutes and is exempt from the Open Records Act.

ATTACHMENT B

BellSouth Telecommunications, Inc.  
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Request for Confidential Classification  
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REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S RESPONSE TO  
STAFF'S THIRD SET OF INTERROGATORIES, ITEM NO. 14  
FILED MAY 15, 2002, IN FLORIDA DOCKET NO. 020119-TP

<u>Location</u>	<u>Reason</u>
<b><u>Interrogatory, Item No. 14</u></b>	
Page 1, Line 1, Columns A-C, E-G	1
Page 1, Line 2, Columns A-C, E-G	1
Page 1, Line 3, Columns E-G	1
Page 2, Lines 1-3, Columns B-E, G-J	1
Page 2, Line 4, Columns A-C	1
Page 2, Line 5, Columns B-E, G-J	1
Page 3, Lines 1-14, Columns B-F	1
Page 3, Lines 17-18, Columns B-G	1
Page 3, Line 19, Columns F-H	1
Page 3, Line 22, Columns C-F	1
Page 3, Lines 26-27, Columns A-G	1
Page 3, Line 28, Columns F-H	1
Page 3, Lines 31-32, Columns A-G	1
Page 3, Line 33, Columns B-G	1
Page 3, Line 34, Columns F-H	1
Page 4, Lines 1-2, Columns A-C, E and G	1
Page 4, Line 3, Columns E, G and H	1
Page 5, Line 7, Columns G, I, and K	1
Page 5, Lines 9-10, Columns A-G, I and K	1
Page 5, Lines 12-13, Columns A-G, I and K	1
Page 5, Line 15, Columns F-G, I, J and K	1
Page 5, Lines 25-30, Columns A-G, I and K	1
Page 5, Line 32, Columns F-G, I-K	1
Page 6, Lines 1-5, Columns A-G	1
Page 6, Line 6, Columns E, G-H	1
Page 6, Lines 10-14, Columns A-G	1
Page 6, Line 15, Columns E, G-H	1

**ATTACHMENT C**

BellSouth Telecommunications, Inc.  
FPSC Docket No. 020119-TP  
Request for Confidential Classification  
Page 1  
6/11/02

**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF DOCUMENTS PRODUCED  
IN RESPONSE TO FPSC STAFF'S THIRD REQUEST FOR PRODUCTION OF  
DOCUMENTS, ITEMS 7 AND 8 FILED ON MAY 21, 2002, SUBJECT FPSC STAFF'S  
SUBPOENA DUCES TECUM WITHOUT DEPOSITION IN DOCKET 020119-TP.**

**Explanation of Proprietary Information**

1. The information is proprietary to BellSouth and includes customer specific account information. The Commission has always zealously protected customer specific information in order to protect the customer's privacy and prevent a competitor of the customer from obtaining an unfair advantage. This information is clearly confidential and proprietary under Florida Statutes, Section 364.183 and Rule 25-22.006, Florida Administrative Code. Pursuant to Section 364.183, Florida Statutes, such information is classified as proprietary, confidential business information which is exempt from Section 119.07(1) and Section 24(a), Art.1 of the State Constitution.

**LOCATION**

**REASON**

ENTIRE DOCUMENT

1

BellSouth Telecommunications, Inc.  
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6/21/02

**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF DOCUMENTS PRODUCED  
IN RESPONSE TO FPSC STAFF'S THIRD REQUEST FOR PRODUCTION OF  
DOCUMENTS, SUPPLEMENTAL RESPONSE TO ITEM 7, FILED ON MAY 31, 2002,  
SUBJECT FPSC STAFF'S SUBPOENA DUCES TECUM WITHOUT DEPOSITION IN  
DOCKET 020119-TP.**

**Explanation of Proprietary Information**

1. The information is proprietary to BellSouth and includes customer specific account information. The Commission has always zealously protected customer specific information in order to protect the customer's privacy and prevent a competitor of the customer from obtaining an unfair advantage. This information is clearly confidential and proprietary under Florida Statutes, Section 364.183 and Rule 25-22.006, Florida Administrative Code. Pursuant to Section 364.183, Florida Statutes, such information is classified as proprietary, confidential business information which is exempt from Section 119.07(1) and Section 24(a), Art.1 of the State Constitution.

**LOCATION**

**REASON**

ENTIRE DOCUMENT

1