

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-02-1758-CFO-TP  
ISSUED: December 13, 2002

ORDER GRANTING BELLSOUTH'S REQUESTS FOR  
CONFIDENTIAL CLASSIFICATION OF DOCUMENT NOS. 11082-02  
(X-REF DOCUMENT NO. 10143-02), 11738-02, 12169-02,  
AND DOCUMENT NO. 12395-02 (X-REF DOCUMENT NO. 11447-02)

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

13605 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 October 11, 2002, BellSouth filed a Request for Specified Confidential Classification of its Responses to Florida Competitive Carriers Association and Mpower Communications Corporation's First Set of Interrogatories Nos. 11a and First Request for Production of Documents No. 2 (Document No. 11082-02 and cross-referenced Document No. 10143-02). BellSouth maintains that the response contains confidential business information that is proprietary to BellSouth. BellSouth maintains it 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.

On October 25, 2002, BellSouth filed a Request for Specified Confidential Classification of its Responses to Florida Digital Network's First Set of Interrogatories, Nos. 4, 14, 15, 18, 19 and 20 and Florida Digital Network's First Request for Production of Documents Nos. 1 and 4 (Document No. 11738-02). BellSouth asserts that the responses contain confidential business information that is confidential and proprietary to BellSouth. BellSouth has treated and intends to continue to treat the information as private, and this information has not been generally disclosed. BellSouth's position is further specified in Attachment B, which is attached and incorporated in this Order.

BellSouth filed a Request for Specified Confidential Classification for BellSouth's Response to Staff's Fifth Set of Interrogatories No. 30, on November 5, 2002 (Document No. 12169-02). 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 this information has not been generally disclosed. BellSouth's position is further specified in Attachment C, which is attached and incorporated in this Order.

In addition, on November 12, 2002, BellSouth filed a Request for Specified Confidential Classification for BellSouth's Responses to Staff's Sixth Set of Interrogatories Nos. 41 and 42 (Document No. 12395-02 and cross-referenced Document No. 11447-02). BellSouth's position is 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 this information has not been generally disclosed. 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 or 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 Florida Competitive Carriers Association and Mpower Communications Corporation's First Set of Interrogatories Nos. 11a and First Request for Production of Documents No. 2, Document No. 11082-02 and cross-referenced Document No. 10143-02, is granted. It is further

ORDERED that BellSouth Telecommunications, Inc.'s Request for Specified Confidential Classification of its Responses to Florida Digital Network's First Set of Interrogatories, Nos. 4, 14, 15, 18, 19 and 20 and Florida Digital Network's First Request for Production of Documents Nos. 1 and 4, Document No. 11738-02, is granted. It is further

ORDERED that BellSouth Telecommunications, Inc.'s Request for Specified Confidential Classification of BellSouth's Response to Staff's Fifth Set of Interrogatories No. 30, Document No. 12169-02, is granted. It is further

ORDERED that BellSouth Telecommunications, Inc.'s Request for Specified Confidential Classification of BellSouth's Responses to Staff's Sixth Set of Interrogatories Nos. 41 and 42, Document No.

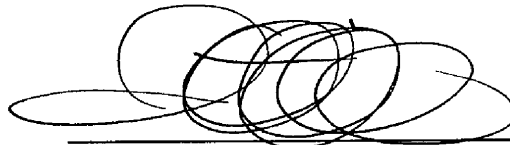
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DOCKETS NOS. 020119-TP, 020578-TP  
PAGE 5

12395-02 and cross-referenced Document No. 11447-02, 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.

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.  
FPSC Docket No. 020578-TP  
Request for Confidential Classification  
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REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S RESPONSE TO FCCA's AND MPOWER'S FIRST SET OF INTERROGATORIES, ITEM NO. 11(A) AND FIRST REQUEST FOR PRODUCTION OF DOCUMENTS, ITEM NO. 2 FILED SEPTEMBER 20, 2002 IN FLORIDA DOCKET NO. 020578-TP

Attachment (1)

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

**ATTACHMENT A**

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**Attachment (1)**

<b><u>Location</u></b>	<b><u>Reason</u></b>
Page 8, Lines 12-13, Columns D-E, G-I	1
Page 8, Lines 14-15, Columns D-E, H-I	1
Page 8, Line 16, Columns D-E, G-I	1
Page 8, Lines 17-18, Columns D-E, H-I	1
Page 8, Line, 19, Columns D-E, G-I	1
Page 8, Line 21, Columns D-E, G-I	1
Page 8, Line 22, Columns D-E, H-I	1
Page 8, Line 23, Columns D-E, G-I	1
Page 8, Line 24, Columns D-E, H-I	1
Page 8, Line 25, Columns D-E, G-I	1
Page 8, Line 26, Columns D-E, H-I	1
Page 8, Lines 27-32, Columns D-E, G-I	1
Page 8, Line 33, Columns D-E, H-I	1
Page 8, Lines 34-35, Columns D-E, G-I	1
Page 8, Line 36, Columns D-E, H-I	1
Page 8, Lines 37-44, Columns D-E, G-I	1
Page 8, Line 45, Columns D-E, H-I	1
Page 9, Line 1, Columns D-E, G-I	1
Page 9, Lines 2-6, Columns D-E, H-I	1
Page 9, Lines 7-8, Columns D-E, G-I	1
Page 9, Lines 9-12, Columns D-E, H-I	1
Page 9, Line 13, Columns D-E, G-I	1
Page 9, Line 14, Columns D-E, H-I	1
Page 9, Line 15, Columns D-E, G-I	1
Page 9, Lines 16-17 Columns D-E, H-I	1
Page 9, Line 18, Columns D-E, G-I	1
Page 9, Line 19, Columns D-E, H-I	1
Page 9, Lines, 20-23, Columns D-E, G-I	1
Page 9, Lines 24, Columns D-E, H-I	1



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**Attachment (1)**

<b><u>Location</u></b>	<b><u>Reason</u></b>
Page 9, Lines 25-28, Columns D-E, G-I	1
Page 9, Lines 29-31, Columns D-E, H-I	1
Page 9, Line 32, Columns D-E, G-I	1
Page 9, Lines 33-38, Columns D-E, H-I	1
Page 9, Lines 39-40, Columns D-E, G-I	1
Page 9, Line 41, Columns D-E, H-I	1
Page 9, Lines 42-44, Columns D-E, G-I	1
Page 10, Lines 1-4, Columns D-E, G-I	1
Page 10, Lines 5-6, Columns D-E, H-I	1
Page 10, Line 7, Columns D-E, G-I	1
Page 10, Line 8, Columns D-E, H-I	1
Page 10, Line 9, Columns D-E, G-I	1
Page 10, Lines 10-12, Columns D-E, H-I	1
Page 10, Lines 13-15, Columns D-E, G-I	1
Page 10, Line 16, Columns D-E, H-I	1
Page 10, Lines 17-24, Columns D-E, G-I	1
Page 10, Lines 25-26, Columns D-E, H-I	1
Page 10, Lines 27-32, Columns D-E, G-I	1
Page 11, Lines 1-3, Columns C-G	1
Page 11, Line 4, Columns E, G-H	1
Page 12, Lines, 1-5 Columns C-G	1
Page 12, Line 6, Columns E, G-H	1
Page 12, Lines 9-13, Columns C-G	1
Page 12, Line 14, Columns E, G-H	1
Page 12, Line 17, Columns C-G	1
Page 12, Line 20, Columns E, G-H	1
Page 13, Lines 1-5, Columns C-G	1

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Attachment (1)

<u>Location</u>	<u>Reason</u>
Page 13, Line 6, Columns E, G-H	1
Page 14, Line 1, Columns C-H	1
Page 14, Line 2, Columns C-G	1
Page 14, Lines 3-4, Columns C-G, I-J	1
Page 14, Line 5, Columns C-F	1
Page 14, Line 6, Columns F-H	1
Page 14, Line 7, Columns C-H	1
Page 14, Line 8, Columns C-G, I-J	1
Page 14, Lines 9, Columns C-G, I-J	1
Page 14, Line 10, Columns C-F	1
Page 14, Line 11, Columns F-H	1
Page 14, Line 12, Columns C-H	1
Page 14, Line 13, Columns C-G	1
Page 14, Line 14, Columns C-F	1
Page 14, Line 15, Columns F-H	1
Page 15, Lines 1-7, Columns C-G	1
Page 15, Line 8, Columns E, G-H	1
Page 15, Lines 9-10, Columns C-F	1
Page 15, Line 11, Columns C, E-F	1
Page 15, Line 12, Columns F-G	1
Page 16, Lines 1-4, Columns C-G	1
Page 16, Line 5, Columns E, G-H	1
Page 16, Lines 8-13, Columns C-G	1
Page 16, Line 14, Columns E, G-H	1
Page 17, Lines 1-2, Columns C-G	1
Page 17, Line 3, Columns C-F	1
Page 17, Line 4, Columns F-H	1

**ATTACHMENT A**

**BellSouth Telecommunications, Inc.**  
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REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S RESPONSE TO FCCA'S AND MPOWER'S FIRST SET OF INTERROGATORIES, ITEM NO. 11(A) AND FIRST REQUEST FOR PRODUCTION OF DOCUMENTS, ITEM NO. 2 FILED SEPTEMBER 20, 2002 IN FLORIDA DOCKET NO. 020578-TP

**Attachment (1)**

<b><u>Location</u></b>	<b><u>Reason</u></b>
Page 18, Lines 1-4, Columns D-I	1
Page 18, Line 5, Columns F-J	1
Page 19, Lines 1-14, Columns C-F	1
Page 19, Lines 15-16, Columns C-G	1
Page 19, Line 17, Columns F-H	1
Page 19, Line 18, Columns C, E-F	1
Page 20, Lines 1-39, Columns D-F	1
Page 21, Line 1, Columns D-F	1

**Production of Document Item No. 2**

<b><u>Location</u></b>	<b><u>Reason</u></b>
Pages 2-15, Columns 6-29	1

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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELL SOUTH'S RESPONSE  
TO FDN'S 1<sup>ST</sup> SET OF INTERROGATORIES (ITEM NOS. 4,14,15,18,19 AND 20) AND  
1<sup>ST</sup> REQUEST FOR PRODUCTION (NOS. 1 AND 4) FILED OCTOBER 4, 2002, IN  
FLORIDA DOCKET NO. 020119-TP**

**Explanation of Proprietary Information**

1. This information contains competitive business information. This information is valuable, it is used by BellSouth in conducting its business and BellSouth strives to keep it secret. Therefore, such information is a trade secret which should be classified as proprietary, confidential business information, exempt from the Open Records Act.

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TO FDN'S 1<sup>ST</sup> SET OF INTERROGATORIES (ITEM NOS. 4,14,15,18,19 AND 20) AND  
1<sup>ST</sup> REQUEST FOR PRODUCTION (NOS. 1 AND 4) FILED OCTOBER 4, 2002, IN  
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**Interrogatory No. 4**

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

**Interrogatory No. 14**

<u>Location</u>	<u>Reason</u>
Columns A, B, C and D	1

**Interrogatory No. 15**

<u>Location</u>	<u>Reason</u>
CLAC Column	1
Lines Column	1

**Interrogatory No. 18**

<u>Location</u>	<u>Reason</u>
Pgs 1-8, Jan through Dec Columns	1
Pgs 9-12, Jan through Jul Columns	1
2000 Total Column	
2001 Total Column	
2002 YTD Column	

ATTACHMENT B

BellSouth Telecommunications, Inc.  
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REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S RESPONSE  
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1<sup>ST</sup> REQUEST FOR PRODUCTION (NOS. 1 AND 4) FILED OCTOBER 4, 2002, IN  
FLORIDA DOCKET NO. 020119-TP

**Interrogatory No. 19**

<u>Location</u>	<u>Reason</u>
Pgs 1-8, Jan through Dec Columns	1
Pgs 9-12, Jan through Jul Columns	1
2000 Total Column	
2001 Total Column	
2002 YTD Column	

**Interrogatory No. 20**

<u>Location</u>	<u>Reason</u>
Pg 1, Lines 1 and 2	1

**POD No. 1**

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

**POD No. 4**

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

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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S RESPONSE  
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1<sup>ST</sup> REQUEST FOR PRODUCTION (NOS. 1 AND 4) FILED OCTOBER 4, 2002, IN  
FLORIDA DOCKET NO. 020119-TP**

**POD No. 4**

<u>Location</u>	<u>Reason</u>
Pages 2-23, Entire page	1
Pages 25-40, Entire page	1
Pages 43-63, Entire page	1
Page 75, Entire page	1
Page 77, Entire page	1
Page 79, Entire page	1
Page 80, Entire page	1
Page 83, Entire page	1
Page 85, Entire page	1
Page 98, Entire page	1
Page 100, Entire page	1
Page 102, Entire page	1
Page 104, Entire page	1
Page 106, Entire page	1
Page 108, Entire page	1

**BellSouth Telecommunications, Inc.  
FPSC Docket No. 020119-TP/020578-TP  
Request for Confidential Classification  
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11/5/02**

**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S RESPONSE  
TO STAFF'S 5<sup>TH</sup> SET OF INTERROGATORIES (ITEM NO. 30) FILED OCTOBER 15,  
2002, IN FLORIDA DOCKET NOS. 020119-TP AND 020578-TP**

**Explanation of Proprietary Information**

1. This information contains competitive business information. This information is valuable, it is used by BellSouth in conducting its business and BellSouth strives to keep it secret. Therefore, such information is a trade secret which should be classified as proprietary, confidential business information, exempt from the Open Records Act.



**ATTACHMENT C**

**BellSouth Telecommunications, Inc.  
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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S RESPONSE  
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2002, IN FLORIDA DOCKET NOS. 020119-TP AND 020578-TP**

**Interrogatory No. 30**

**Location**

**Reason**

Entire Document

1

**ATTACHMENT D**

**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 6<sup>TH</sup> SET OF INTERROGATORIES (ITEM NOS. 41 and 42) FILED  
OCTOBER 21, 2002, IN FLORIDA DOCKET NOS. 020119-TP AND 020578-TP**

**Explanation of Proprietary Information**

1. This information contains competitive business information. This information is valuable, it is used by BellSouth in conducting its business and BellSouth strives to keep it secret. Therefore, such information is a trade secret which should be classified as proprietary, confidential business information, exempt from the Open Records Act.

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**Interrogatory No. 41**

<u>Location</u>	<u>Reason</u>
CLACs Column	1
Lines Column	1

**Interrogatory No. 42**

<u>Location</u>	<u>Reason</u>
CLACs Column	1
Lines Column	1

0