

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation to determine whether BellSouth Telecommunications, Inc.'s tariff filing to restructure its late payment charge is in violation of Section 364.051, F.S.

DOCKET NO. 000733-TL
ORDER NO. PSC-03-0356-PCO-TL
ISSUED: March 14, 2003

ORDER GRANTING MOTION FOR EXTENSION OF DURATION
OF ORDER NO. PSC-01-1731-CFO-TL

On June 19, 2000, this docket was established to investigate whether BellSouth Telecommunications, Inc.'s (BellSouth) tariff filing to restructure its late payment charge is in violation of Section 364.051, Florida Statutes. By proposed agency action Order No. PSC-00-1357-PAA-TL, issued July 27, 2000, we found BellSouth's July 9, 1999, tariff filings revising its Late Payment Charge in Section A2 of its General Subscriber Service Tariff and Section B2 of its Private Line Services Tariff in violation of Section 364.051(6)(a), Florida Statutes. We also ordered that the tariffs remain in effect for 30 days from the issuance of the Order. If a timely protest of this Order was filed, then the tariffs were to remain in effect pending the outcome of a hearing with any revenues resulting from the tariff held subject to refund.

On August 17, 2000, BellSouth timely petitioned for a formal hearing. We rendered our final decision in this Docket by Order No. PSC-01-1769-FOF-TL, issued August 30, 2001. Thereafter, our decision was appealed by BellSouth. On November 25, 2002, the Florida Supreme Court upheld our decision. On December 31, 2002, the Court denied a request for rehearing. This Docket remains open for implementation of the refund required by our decision.

By Order No. PSC-01-1731-CFO-TL, BellSouth's Requests for Confidential Classification of Documents Nos. 06367-00 and 07636-01 (cross-referenced Document Nos. 06766-01 and 07497-01) were granted. On February 24, 2003, BellSouth filed a Motion for

DOCUMENT NUMBER-DATE

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Extension of Duration of Order No. PSC-01-1731-CFO-TL.¹ BellSouth seeks extension of the Order granting confidential treatment to these documents in accordance with Rule 25-22.006(9), Florida Administrative Code. BellSouth states that these documents are still in Commission staff's possession. BellSouth also asserts that it continues to treat this information as confidential, particularly since some of the information at issue is customer specific proprietary business information. Therefore, BellSouth asks that the confidentiality period for these documents be extended for a period of 18 months.

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, states that "proprietary confidential business information" is

[o]wned 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.

¹BellSouth submitted a subsequent corrective filing to reflect that they seek extension of Order No. PSC-01-1731-CFO-TL, rather than Order No. PSC-01-1877-CFO-TL.

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Upon consideration, I find that BellSouth's request complies with Rule 25-22.006(9), Florida Administrative Code. I note that our staff has retained the information at issue because this Docket remains open and active. We have previously granted the information confidential treatment, and BellSouth asserts that it continues to treat the information as confidential. BellSouth further asserts that release of the information at this point in time would be detrimental to BellSouth. Therefore, BellSouth's request shall be granted. The confidentiality period shall be extended for a period of 18 months from the issuance of this Order.

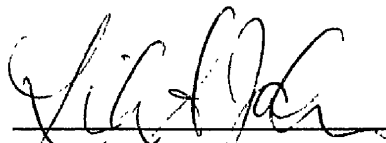
Based upon the foregoing, it is therefore,

ORDERED by Chairman Lila A. Jaber, as Prehearing Officer, that BellSouth Telecommunications, Inc.'s February 24, 2003, Motion for Extension of Duration of Order No. PSC-01-1731-CFO-TL, as amended, is hereby granted. It is further

ORDERED that Documents Nos. 06367-00 and 07636-01 (cross-referenced Document Nos. 06766-01 and 07497-01) shall continue to be afforded confidential classification in accordance with this Order for a period of 18 months from the issuance date of this Order. 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 March, 2003.



LILA A. JABER
Chairman 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; or (2) 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.