

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by Supra  
Telecommunications and  
Information Systems, Inc.  
against BellSouth  
Telecommunications, Inc.  
regarding BellSouth's alleged  
use of carrier to carrier  
information.

DOCKET NO. 030349-TP  
ORDER NO. PSC-03-0806-CFO-TP  
ISSUED: July 9, 2003

ORDER GRANTING REQUESTS FOR CONFIDENTIAL CLASSIFICATION OF  
DOCUMENT NOS. 04226-03 (X-REF 03599-03) AND  
05822-03 (X-REF 05121-03)

On April 18, 2003, Supra Telecommunications and Information Systems, Inc. (Supra) filed its Emergency Petition for Expedited Review of BellSouth Telecommunications, Inc.'s (BellSouth) \$75 Cash Back Promotion and Investigation into BellSouth's Pricing and Marketing Practices. On May 5, 2003, BellSouth filed its Answer to Supra's Emergency Petition.

On May 9, 2003, BellSouth filed a Request for Specified Confidential Classification of certain portions of Supra's Petition (Document No. 04226-03 (x-ref 03599-03)). BellSouth claims that information contained in Supra's Petition, and the Exhibits included with the Petition, includes confidential business practices and procedures utilized by BellSouth to conduct business. A detailed description of this information is contained in Attachment A. BellSouth maintains that public disclosure of this information would cause competitive harm to BellSouth and provide competitors with an unfair advantage in future negotiations.

BellSouth states that the confidential information contained in Supra's Petition is valuable and BellSouth strives to keep it secret. BellSouth requests that the information be classified as confidential, proprietary business information pursuant to Sections 364.24 and 364.183, Florida Statutes, and accordingly, be held exempt from the public disclosure requirements of Section 119.07, Florida Statutes.

DOCUMENT NUMBER DATE

06070 JUL-90

FPSC-COMMISSION CLERK

On June 9, 2003, Supra filed for leave to amend its petition, attaching its Amended Emergency Petition alleging BellSouth's violation of 47 U.S.C. Section 222 and Florida Public Service Commission policies regarding the use of wholesale information in retail marketing. On June 17, 2003, by Order No. PSC-03-0721-PCO-TP, Supra was granted leave to amend its petition. On the same date, Order No. PSC-03-0718-PCO-TP, the Order Establishing Procedure, was issued. This matter is set for hearing on August 29, 2003.

On June 30, 2003, BellSouth filed a Request for Specified Confidential Classification of certain portions of Supra's Amended Petition (Document No. 05822-03 (x-ref 05121-03)). BellSouth claims that information contained in Supra's Amended Petition includes confidential business practices and procedures utilized by BellSouth to conduct business. A detailed description of this information is contained in Attachment B. BellSouth maintains that public disclosure of this information would cause competitive harm to BellSouth and provide competitors with an unfair advantage in future negotiations.

BellSouth states that the confidential information contained in Supra's Petition is valuable and BellSouth strives to keep it secret. BellSouth requests that the information be classified as confidential, proprietary business information pursuant to Sections 364.24 and 364.183, Florida Statutes, and accordingly, be held exempt from the public disclosure requirements of Section 119.07, Florida Statutes.

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.

Based on the definition of proprietary confidential business information in Section 364.183(3), Florida Statutes, it appears that the material described herein is proprietary business information in accordance with Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. Disclosure of this information would give BellSouth's competitors an unfair advantage in future negotiations. As such, BellSouth's Requests for Confidential Classification of Document Nos. 04226-03 (x-ref 03599-03) and 05822-03 (x-ref 05121-03) are hereby granted.

Based on the foregoing, it is


ORDERED by J. Terry Deason, as Prehearing Officer, that BellSouth Telecommunications, Inc.'s Requests for Confidential Classification of Document Nos. 04226-03 (x-ref 03599-03) and 05822-03 (x-ref 05121-03) are hereby granted. It is further

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

ORDER NO. PSC-03-0806-CFO-TP  
DOCKET NO. 030349-TP  
PAGE 4

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 J. Terry Deason as Prehearing Officer, this 9th day of July, 2003.

  
\_\_\_\_\_  
J. TERRY DEASON  
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; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the

ORDER NO. PSC-03-0806-CFO-TP

DOCKET NO. 030349-TP

PAGE 5

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. 030349-TP  
Request for Confidential Classification  
Page 1 of 2,  
05/09/03

REQUEST FOR CONFIDENTIAL CLASSIFICATION OF PORTIONS OF SUPRA'S  
PETITION AND EXHIBITS 'E' AND 'G' IN FPSC DOCKET 030349-TP FILED  
ON APRIL 18, 2003.

Explanation of Proprietary Information

1. This information reflects BellSouth's business strategy relating to its competitive marketing position. Specifically, this information discusses, describes and evaluates BellSouth's internal systems used in potential strategic responses to various competitive scenarios; key details relating to the substance of such systems as well as developmental time frame information and implementation information; and discusses/evaluates recommendations on these potential competitive response. BellSouth's competitors can use this information to develop their own market strategy with which to thwart BellSouth's effort in this market. Thus, the disclosure of this information to BellSouth's competitors would impair BellSouth's ability to compete and is entitled to confidential classification pursuant to Section 364.183(3)(a) and (3)(e), Florida Statutes. In addition, this information is valuable as it is used by BellSouth in conducting its business and BellSouth strives to keep it secret. Therefore, this information is a trade secret which should be classified as proprietary, confidential business information exempt from the Open Records Act.

ORDER NO. PSC-03-0806-CFO-TP  
DOCKET NO. 030349-TP  
PAGE 7

**ATTACHMENT A**

BellSouth Telecommunications, Inc.  
FPSC Docket No. 030349-TP  
Request for Confidential Classification  
Page 1 of 2  
05/09/03

REQUEST FOR CONFIDENTIAL CLASSIFICATION OF PORTIONS OF SUPRA'S  
PETITION AND EXHIBITS 'E' AND 'G' IN FPSC DOCKET 030349-TP FILED  
ON APRIL 18, 2003.

**PETITION**

<u>Location</u>	<u>Reason</u>
Page 12, Paragraph #24, Lines 5-10	1
Page 12, Paragraph #25, Lines 1-3	1
Page 13, Paragraph ## 25, Lines 1-2	1
Page 13, Paragraph # 26, Lines 1-4	1
Page 13, Paragraph # 28, Lines 1,3,4	1
Page 14, Paragraph ## 28, Lines 1-12, 16-28	1
Page 15, Paragraph # 29, Lines 1-3	1
Page 16, Paragraph # 29, Lines 11-14, 23-26	1

**EXHIBITS**

Exhibit E

Location: Entire Document 1

Exhibit G

Location: Entire Document 1

**ATTACHMENT B**

BellSouth Telecommunications, Inc.  
FPSC Docket No. 030349-TP  
Request for Confidential Classification  
Page 1 of 2  
06/30/03

REQUEST FOR CONFIDENTIAL CLASSIFICATION OF PORTIONS OF SUPRA'S  
AMENDED PETITION IN FPSC DOCKET 030349-TP FILED ON JUNE 9, 2003.

Explanation of Proprietary Information

1. This information reflects BellSouth's business strategy relating to its competitive marketing position. Specifically, this information discusses, describes and evaluates BellSouth's internal systems used in potential strategic responses to various competitive scenarios; key details relating to the substance of such systems as well as developmental time frame information and implementation information; and discusses/evaluates recommendations on these potential competitive response. BellSouth's competitors can use this information to develop their own market strategy with which to thwart BellSouth's effort in this market. Thus, the disclosure of this information to BellSouth's competitors would impair BellSouth's ability to compete and is entitled to confidential classification pursuant to Section 364.1 83(3)(a) and (3)(e), Florida Statutes. In addition, this information is valuable as it is used by BellSouth in conducting its business and BellSouth strives to keep it secret. Therefore, this information is a trade secret which should be classified as proprietary, confidential business information exempt from the Open Records Act.



ORDER NO. PSC-03-0806-CFO-TP  
DOCKET NO. 030349-TP  
PAGE 9

**ATTACHMENT B**

BellSouth Telecommunications, Inc.  
FPSC Docket No. 030349-TP  
Request for Confidential Classification  
Page 2 of 2  
06/30/03

REQUEST FOR CONFIDENTIAL, CLASSIFICATION OF PORTIONS OF SUPRA'S  
AMENDED PETITION IN FPSC DOCKET 030349-TP FILED ON APRIL 18,2003.

**PETITION**

<u>Location</u>	<u>Reason</u>
Page 5, Lines 16-25	1
Page 6, Lines 1,7-10, 18,20-21	1
Page 7, Lines 1-12, 18-30	1
Page 8, Lines 1-3	1
Page 9, Lines 8-10, 12,21,22-24	1