

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for arbitration concerning complaint of AT&T Communications of the Southern States, LLC, Teleport Communications Group, Inc., and TCG South Florida for enforcement of interconnection agreements with BellSouth Telecommunications, Inc.

DOCKET NO. 020919-TP
ORDER NO. PSC-03-0891-CFO-TP
ISSUED: August 4, 2003

ORDER GRANTING CONFIDENTIAL CLASSIFICATION OF
DOCUMENT NO. 04059-03 (X-REF. 03894-03)

On August 26, 2002, AT&T Communications of the Southern States, LLC (AT&T), Teleport Communications Group, Inc., and TCG South Florida (collectively, AT&T) filed its complaint against BellSouth Telecommunications, Inc. (BellSouth) for enforcement of certain provisions of their interconnection agreements. On September 20, 2002, BellSouth filed its response to AT&T's Complaint. An administrative hearing was held on May 7, 2003.

On May 5, 2003, BellSouth filed its Request for Specified Confidential Classification for its responses to Staff's First Request for Production of Documents (PODs) No. 1, Document No. 04059-03 (x-ref. 03894-03). BellSouth states in support of its Motion, the information contained its response includes contractual data and other confidential business practices/procedures utilized by BellSouth to conduct business. BellSouth contends that a more specific description of this information is contained in Attachment A, which is attached hereto and incorporated by reference. BellSouth asserts that a public disclosure of this information would cause competitive harm to BellSouth and provide competitors with an unfair advantage in future negotiations. BellSouth asserts the information is valuable and BellSouth strives to keep it secret. BellSouth contends that such information should be classified as confidential business information and customer proprietary information pursuant to Section 364.24 and Section 364.183, Florida Statutes. BellSouth states that accordingly, the information should be held exempt from the public disclosure requirements of Section 119.07, Florida Statutes.

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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 trade secret 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 artificial competitive advantage, allowing them to successfully compete against BellSouth without the usual market trial and error. As such, BellSouth's Request for Specified Confidential Classification of Document No. 04059-03 (x-ref. 03894-03), its responses to Staff's Request for PODs No. 1 is hereby granted.

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Based on the foregoing, it is

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that BellSouth Telecommunications, Inc.'s Request for Specified Confidential Classification of Document No. 04059-03 (x-ref. 03894-03), its responses to Staff's Request for PODs No. 1, as set forth in Attachment A, is hereby 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 J. Terry Deason as Prehearing Officer, this 4th day of August, 2003.



J. TERRY DEASON
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.

ATTACHMENT A

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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S RESPONSE
TO STAFF'S 1ST REQUEST FOR PRODUCTION OF DOCUMENTS, REQUEST NO. 1,
FILED APRIL 28, 2003, IN
FLORIDA DOCKET NO. 02919-TP**

Explanation of Proprietary Information

1. This information contains contractual data. Specifically, this information relates to a Confidential Settlement Agreement entered into between BellSouth and the ALEC. Accordingly, it is exempt from disclosure pursuant to Section 364.183 (3)(d). This information reflects confidentiality terms set forth in the Settlement Agreement between BellSouth and the ALEC, and BellSouth is contractually obligated to treat it as such.

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ATTACHMENT A

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PRODUCTION OF DOCUMENT REQUEST NO. 1

<u>Location</u>	<u>Reason</u>
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