

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-03-1035-CFO-TP
ISSUED: September 18, 2003

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION OF
DOCUMENT NOS. 08680-03, 08677-03 (X-REF. 07862-03),
AND 08674-03 (X-REF. 07855-03)

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 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. A hearing was held on this matter on August 29, 2003.

On August 22, 2003, BellSouth filed Notices of Intent to Request Confidential Classification for three Responses to Requests for Production of Documents. On September 12, 2003, BellSouth filed Requests for Specified Confidential Classification for the those documents as indicated below:

- Response to Supra's First Request for Production of Documents, Nos. 1, 4 and 5 (same as Late-Filed Hearing Exhibit No. 7, Document No. 08680-03 (see Document No. 07860-03)).

DOCUMENT NUMBER - DATE

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- Response to Supra's Second Request for Production of Documents, No. 8, Document No. 08677-03 (x-ref. Document No. 07862-03).
- Response to Commission Staff's First Request for Production of Documents, No. 1, Document No. 08674-03 (x-ref. Document No. 07855-03).

BellSouth states Response Nos. 1 and 4 to Supra's First Request for Production of Documents, and its Response to Commission Staff's First Request for Production of Documents No. 1 includes confidential, proprietary information utilized by BellSouth to conduct business. BellSouth states that the information contains BellSouth trade secrets and information relating to BellSouth's competitive interests, specifically, marketing efforts and procedures. Public disclosure of this information, BellSouth contends, would cause competitive harm to BellSouth and provide competitors with an unfair advantage.

In addition, BellSouth states its Response to Supra's First Request for Production of Documents No. 5, contains customer proprietary information, which is prohibited from being disclosed under Section 364.24, Florida Statutes. BellSouth considers this information valuable and the information has not been generally disclosed. Therefore, BellSouth requests that, pursuant to Section 364.183, Florida Statutes, this information not be subject to the public disclosure requirements of Section 119.07, Florida Statutes.

BellSouth also requests confidential classification of its Response to Supra's Second Request for Production of Documents, No. 8 because it includes confidential, proprietary information utilized by BellSouth to conduct business. BellSouth states that the information discussed in this document is valuable, and BellSouth strives to keep it secret. Accordingly, BellSouth requests that it be 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, or is prohibited from disclosure by Section 364.24, Florida Statutes. As such, BellSouth's Requests for Confidential Classification of Document Nos. 08674-03, 08677-03 and 08680-03 are hereby granted.

Based on the foregoing, it is

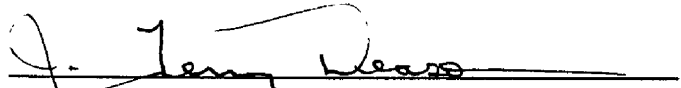
ORDERED by J. Terry Deason, as Prehearing Officer, that BellSouth Telecommunications, Inc.'s Requests for Confidential Classification of Document Nos. 08674-03, 08677-03 and 08680-03 are hereby granted. It is further

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ORDERED that pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, 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

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 18th Day of September, 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.

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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.