

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Florida
Competitive Carriers Association
against BellSouth
Telecommunications, Inc.
regarding BellSouth's practice
of refusing to provide
FastAccess Internet Service to
customers who receive voice
service from a competitive voice
provider, and request for
expedited relief.

DOCKET NO. 020507-TL
ORDER NO. PSC-03-1085-CFO-TL
ISSUED: October 1, 2003

ORDER GRANTING MCI'S REQUEST FOR SPECIFIED CONFIDENTIAL
CLASSIFICATION FOR DOCUMENT NO. 08426-03
(X-REF. 07682-03 AND 08368-03)

BY THE COMMISSION:

On June 12, 2002, the Florida Competitive Carriers Association (FCCA) filed a Complaint against BellSouth Telecommunications, Inc. (BellSouth) and a Request for Expedited Relief seeking relief from BellSouth's practice of refusing to provide its FastAccess service to customers who receive voice service from an Alternative Local Exchange Carrier (ALEC). By Order No. PSC-02-0935-PCO-TL, issued July 12, 2002, the request for expedited relief was denied. On July 21 and 22, 2003, an administrative hearing was held in this matter.

On September 8, 2003, MCI WorldCom Communications, Inc. and MCImetro Access Transmission Services, LLC (collectively "MCI") filed its Request for Specified Confidential Classification for information contained in BellSouth's Post Hearing Brief, Document No. 08426-03 (x-ref. 07682-03 and 08368-03). Attachment A, attached hereto and incorporated herein, contains a detailed justification of the confidentiality of the information at issue. MCI states that a number of exhibits were stipulated into the record, including some discovery responses produced by FCCA and MCI to BellSouth. MCI asserts that some of the information produced by the FCCA and MCI is confidential business information of MCI. MCI

DOCUMENT NUMBER-DATE

09458 OCT-13

FPSC-COMMISSION CLERK

contends that this information became part of Exhibit 2 and was granted confidential treatment on August 28, 2003, in Order No. PSC-03-0975-CFO-TL.

MCI states that in a proprietary version of BellSouth's Post Hearing Brief on August 19, 2003, BellSouth specifically provides certain confidential proprietary business information of MCI's contained in Exhibit 2.¹ MCI asserts that the information in BellSouth's Post Hearing Brief and MCI's confidential response to BellSouth Interrogatory No. 6 appear different because BellSouth has totaled the confidential information in its Brief, but nevertheless remains confidential. MCI asserts that MCI data provided by BellSouth in its Brief has been classified as confidential by the Commission by Order No. PSC-03-0975-CFO-TL. MCI states that the portion of confidential, proprietary business information contained in BellSouth's Brief is specifically related to MCI's business operations. MCI asserts that MCI considers this information to be confidential, proprietary business information. MCI contends that the confidential information is related to the number of lines MCI has and their historical growth. MCI asserts that disclosure of the information has not been made public and is governed by a Protective Agreement between the parties. MCI states that it has treated and intends to continue to treat the information for which confidential classification is sought as private, and this information has not been generally disclosed.

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

¹MCI notes that in BellSouth's brief inadvertently cites to Exhibit 1, which is the public verison of the material, rather than to Exhibit 2, which is the confidential version).

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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 its competitors an artificial competitive advantage, allowing them to successfully compete against MCI without the usual market trial and error. As such, MCI's Request for Specified Confidential Classification of Document No. 08426-03 (x-ref. 07682-03 and 08368-03) is hereby granted.

Based on the foregoing, it is

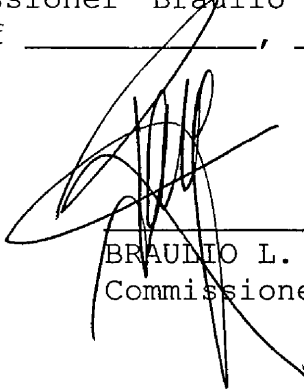
ORDERED by Commissioner Braulio L. Baez, as Prehearing Officer, that MCI WorldCom Communications, Inc. and MCI metro Access Transmission Services, LLC's Request for Specified Confidential Classification of Document No. 08426-03 (x-ref. 07682-03 and 08368-03), as set forth in Attachment A, is hereby granted and incorporated by reference into this Order. 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 Braulio L. Baez, as Prehearing Officer, this ____ day of _____, _____.

 for Commissioner Braulio Baez

BRAULIO L. BAEZ
Commissioner and Prehearing Officer

(S E A L)

PAC

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

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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.

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ATTACHMENT A

ATTACHMENT A

**MCI
DOCKET NO. 020507-TP**

**EXPLANATION AND IDENTIFICATION
OF PROPRIETARY INFORMATION**

RATIONALE "A"

The information contained in the confidential portions of these responses relates to competitive interests, the disclosure of which would impair the competitive business interested of MCI. Specifically, the information provides the specific number of MCI's UNE-P loops, UNE-loops, and resold lines. MCI treats this information as proprietary and confidential information. MCI has treated and intends to continue to treat the information for which confidential classification is sought as private, and this information has not been generally disclosed. Public disclosure of this information would provide MCI's competitors and potential competitors with an advantage knowing MCI's specific business strategies, and is valuable to such competitors in formulating strategies for entry, marketing, and overall business strategy. Therefore, this information should be classified as proprietary, confidential business information pursuant to Section 364.183(3)(e), Florida Statutes, exempt from the Open Records Act.

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