

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Verizon Florida Inc. to reform intrastate network access and basic local telecommunications rates in accordance with Section 364.164, Florida Statutes.

DOCKET NO. 030867-TL

In re: Petition by Sprint-Florida, Incorporated to reduce intrastate switched network access rates to interstate parity in revenue-neutral manner pursuant to Section 364.164(1), Florida Statutes.

DOCKET NO. 030868-TL

In re: Petition for implementation of Section 364.164, Florida Statutes, by rebalancing rates in a revenue-neutral manner through decreases in intrastate switched access charges with offsetting rate adjustments for basic services, by BellSouth Telecommunications, Inc.

DOCKET NO. 030869-TL

In re: Flow-through of LEC switched access reductions by IXC's, pursuant to Section 364.163(2), Florida Statutes.

DOCKET NO. 030961-TI
ORDER NO. PSC-03-1401-CFO-TL
ISSUED: December 12, 2003

ORDER GRANTING BELLSOUTH'S REQUEST FOR SPECIFIED CONFIDENTIAL CLASSIFICATION OF DOCUMENT NO. 11890-03 (X-REFERENCE DOCUMENT NOS. 10838-03 AND 10846-03)

The Florida Legislature enacted the Tele-Competition Innovation and Infrastructure Enhancement Act (Tele-Competition Act or Act) which became effective on May 23, 2003. On August 27, 2003, BellSouth Telecommunications, Inc. (BellSouth), Verizon Florida Inc. (Verizon), and Sprint-Florida, Incorporated (Sprint), each filed petitions pursuant to Section 364.164, Florida Statutes. Dockets Nos. 030867-TL (Verizon), 030868-TL (Sprint), and 030869-TL

DOCUMENT NUMBER DATE

12927 DEC 12 8

FPSC-COMMISSION CLERK

(BellSouth) were opened to address these petitions in the time frame provided by Section 364.164, Florida Statutes. On September 4, 2003, the Order Establishing Procedure and Consolidating Dockets for Hearing, Order No. PSC-03-0994-PCO-TL, was issued. At the September 15, 2003, Agenda Conference, the Commission decided to hold public hearings in the above referenced dockets. On November 4, 2003, Order No. PSC-03-1240-PCO-TL was issued, consolidating Docket No. 030961 into this Docket and modifying certain procedures therein.

On October 31, 2003, the Office of Public Counsel (OPC) filed the direct testimony, work papers, and Exhibits of Dr. Gabel. On that same date, AARP filed direct testimony and exhibits of Dr. Mark Cooper. Said testimony, work papers, and exhibits contain information which OPC and AARP understood contained BellSouth proprietary and confidential information. Therefore, on November 21, 2003, BellSouth filed a request for confidential classification. In its request, BellSouth seeks confidential classification of information contained in the direct testimony, work papers, and Exhibits of Dr. David Gabel, and direct testimony and exhibits of Dr. Mark Cooper (Document No. 11890-03, cross-reference Document Nos. 10838-03, 10846-03) (See Attachment A). Attachment A, attached hereto and incorporated herein, outlines the location and specific justification for the request addressed herein. BellSouth asserts that public disclosure of this information would cause competitive harm to BellSouth and provide competitors with an unfair advantage.

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 forth 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.

Upon inspection, based on the definition of proprietary confidential business information in Section 364.183(3), Florida Statutes, it appears that the material contained in these documents 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 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 the Document No. 11890-03 (x-reference Document Nos. 10838-03 and 10846-03), identified in Attachment A is hereby granted.

Based on the foregoing, it is

ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that BellSouth Telecommunications, Inc.'s Request for Confidential Classification of Document No. 11890-03 (x-reference Document Nos. 10838-03 and 10846-03), as set forth in the body of this Order and also in Attachment A, which is incorporated herein by reference, is 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

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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 Rudolph "Rudy" Bradley, as Prehearing Officer, this 12th day of December, 2003.



RUDOLPH "RUDY" BRADLEY
Commissioner and Prehearing Officer

(S E A L)

FRB

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.

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ATTACHMENT A

**BellSouth Telecommunications, Inc.
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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF THE TESTIMONY AND
PROPRIETARY WORKPAPER OF THE OFFICE OF PUBLIC COUNSEL WITNESS
DR. DAVID J. GABEL AND EXHIBITS MCN-1 AND MCN-2 FOR AARP'S WITNESS
DR. MARK N. COOPER IN FPSC DOCKETS 030867-TL, 030868-TL, 030869-TL FILED
ON OCTOBER 31, 2003.**

Explanation of Proprietary Information

1. This information reflects BellSouth's cost to provide certain services. The public disclosure of this information would provide BellSouth's competitors with an advantage in that they would know the price or rate below which BellSouth could not provide the service. BellSouth is not able to obtain its competitors' costs to provide service. Therefore, it would be inequitable and unfair for BellSouth's competitors to have access to BellSouth's cost information. For these reasons, the public disclosure of the information would impair the competitive business of BellSouth, and the information is, therefore, entitled to confidential classification under the terms of Florida Statutes, Section 364.183(3)(e). This information is valuable and is used by BellSouth in conducting its business and BellSouth strives to keep it secret. Therefore, this information should be classified as proprietary, confidential business information pursuant to Section 364.183 Florida Statutes and is exempt from the Open Records Act.

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ATTACHMENT A

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<u>LOCATION</u>	<u>REASON</u>
<u>TESTIMONY OF DR. DAVID J. GABEL (OPC)</u>	
Page 25, Lines 18 & 19	1
Page 26, lines 2, 3, 5, 6, & 7	1
Page 28, Lines 3,4,12,14, & 18	1
Page 29, Line 1	1
Page 86, Lines 1 & 3	1
Page 87, Lines 13 & 14	1
Page 89, Lines 7 & 8	1
Page 90, Lines 10, 11, 13, 14 & 21	1
Page 91, Lines 3, 5, 8, 9, 11, & 12	1
<u>DR. DAVID J. GABEL'S WORKPAPERS (OPC)</u>	
Appj_Prop.xls	1
B out_prop.xls	1
Bnocom_prop.xls	1
LCOM-prop.xls	1
OSPFac-prop.xls	1
R out_prop.xls	1
Retail_prop.xls	1
Rnocom-prop.xls	1
Work book common cost.prop.xls	1
<u>EXHIBITS OF DR. MARK N. COOPER (AARP)</u>	
EXHIBIT MNC-1	
Page 1, Line 1, Column B, C, & D	1
Page 2, Lines 1-5, Column A	1
EXHIBIT MNC-2	
Line 1, Columns A, B, & C	1