

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for expedited review of BellSouth Telecommunications, Inc.'s intrastate tariffs for pay telephone access services (PTAS) rate with respect to rates for payphone line access, usage, and features, by Florida Public Telecommunications Association.

DOCKET NO. 030300-TP
ORDER NO. PSC-04-0055-CFO-TP
ISSUED: January 20, 2004

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION OF
DOCUMENT NO. 11558-03 (X-REF. DOCUMENT NO. 12631-03)

On March 26, 2003, The Florida Public Telecommunications Association (FPTA) filed a Petition for Expedited Review of BellSouth Telecommunications, Inc.'s (BellSouth) Tariffs with Respect to Rates for Payphone Line Access, Usage, and Features. BellSouth filed its Answer on April 15, 2003. On the same date, BellSouth filed a Motion to Dismiss stating that FPTA failed to state a claim for which this Commission may grant relief. By Order No. PSC-03-0622-PCO-TP, issued May 23, 2003, FPTA's Request for Expedited Review was denied. By Order No. PSC-03-0828-FOF-TP, issued September 24, 2003, BellSouth's Motion to Dismiss was denied.

On September 24, 2003, Order No. PSC-03-1066-PCO-TP was issued, establishing the procedure in this Docket. On November 17, BellSouth filed the Direct Testimony of Daonne D. Caldwell and attached Exhibits DDC-1 and DDC-2. On the same date, BellSouth filed a Notice of Intent to Request Specified Confidential Classification for Exhibits DDC-1 and DDC-2. On December 8, 2003, pursuant to Rule 25-22.06(3)(a), Florida Administrative Code, BellSouth filed a Request for Confidential Classification of Exhibits DDC-1 and DDC-2, Document No. 11558-03 (x-ref. Document No. 12631-03).

BellSouth states that it has treated and intends to continue to treat the information for which confidential classification is sought as private. BellSouth asserts that this information has not been generally disclosed because competitors offering the same services can use this information as a resource, and thereby impair BellSouth's ability to compete. A line-by-line description of the information is contained in Attachment A.

BellSouth contends that this information is entitled to proprietary confidential classification. BellSouth states that the documents contain actual unit cost information for discrete cost elements. BellSouth asserts that public disclosure of this information would provide BellSouth's competitors with an advantage because they would know the price or rate below which BellSouth could not provide service. BellSouth states that the data is valuable to competitors and potential competitors in formulating strategic plans for entry, pricing, marketing,

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and overall business strategies concerning these services. BellSouth further states that the same information regarding its competitors is not available to BellSouth. Therefore, BellSouth states, this information, relating to BellSouth's competitive business, meets the definition of proprietary confidential business information under Section 364.183(e), Florida Statutes, and therefore, should be afforded confidential classification.

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. As such, BellSouth's Request for Confidential Classification of Document No. 11558-03 (x-ref. Document No. 12631-03) is hereby granted.

Based on the foregoing, it is

ORDERED by Charles M. Davidson, as Prehearing Officer, that BellSouth Telecommunications, Inc.'s Request for Confidential Classification of Document No. 11558-03 (x-ref. Document No. 12631-03) as set forth in Attachment A, which is attached and incorporated herein, is 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 Charles M. Davidson, as Prehearing Officer, this 20th Day of January, 2004



CHARLES M. DAVIDSON
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; 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,

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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.