

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-04-0626-CFO-TP  
ISSUED: June 23, 2004

ORDER GRANTING BELLSOUTH'S REQUEST FOR SPECIFIED CONFIDENTIAL CLASSIFICATION OF DOCUMENT NO. 05266-04 (X-REFERENCE DOCUMENT NO. 05116-04)

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 May 5, 2004, BellSouth filed its Response to FPTA's 1<sup>st</sup> set of interrogatories (No. 9) and 1<sup>st</sup> request for PODs (Nos. 2 and 9). On that same date, pursuant to Rule 25-22.006(3)(a), Florida Administrative Code, BellSouth filed its Request for Specified Confidential Classification of those documents. In its request, BellSouth seeks confidential classification of information contained in:

1. BellSouth's response to FPTA's 1<sup>st</sup> set of interrogatories (No. 9)  
(Marked begin confidential through end confidential)
2. POD No. 2  
(Entire page)
3. POD No. 9  
(Entire page)

Document No. 05266-04, x-reference Document No. 05116-04)

DOCUMENT NUMBER-DATE

06904 JUN 23 04

FPSC-COMMISSION CLERK

BellSouth asserts that the 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 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 documents identified in Attachment A is hereby granted.

Based on the foregoing, it is

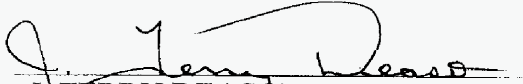
ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that BellSouth Telecommunications, Inc.'s Request for Confidential Classification of Document No. 05266-04 (x-reference Document No. 05116-04), as set forth in the body of this Order and also in Attachment A, which is incorporated herein by reference, is hereby granted. It is further

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ORDERED that pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, any confidentiality granted to the material 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 23rd day of June, 2004.

  
J. TERRY DEASON  
Commissioner and Prehearing Officer

(SEAL)

LF

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

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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

BellSouth Telecommunications, Inc.  
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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S RESPONSE TO  
FPTA'S FIRST SET OF INTERROGATORIES, NO. 9 AND FIRST REQUEST FOR  
PRODUCTION, NOS. 2 AND 9 FILED MAY 3, 2004, IN FPSC DOCKET 030300-TP**

**Explanation of Proprietary Information**

1. This information contains business information related to competitive interests of BellSouth that is proprietary to BellSouth. The documents contain actual unit cost information for discrete cost elements. 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. The data is valuable to competitors and potential competitors in formulating strategic plans for entry, pricing, marketing, and overall business strategies concerning these services. This same information on competitors is not available to BellSouth. Disclosure of this data would impair the competitive business and cause harm to BellSouth. Consequently, 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.
2. This information contains competitive business information, in particular documents relating to settlement negotiations. Disclosure of this data would impair the competitive business of, and cause harm to, BellSouth. Consequently, 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.

ATTACHMENT A

BellSouth Telecommunications, Inc.  
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REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELL SOUTH'S RESPONSE TO  
FPTA'S FIRST SET OF INTERROGATORIES, NO. 9 AND FIRST REQUEST FOR  
PRODUCTION, NOS. 2 AND 9 FILED MAY 3, 2004, IN FPSC DOCKET 030300-TP

LOCATION

REASON

Interrogatory No. 9

Response: Marked Begin Confidential  
Through End Confidential

2

POD No. 2

Entire Page:  
Bates Range BST000005 - B ST000110

1

POD No. 9

Entire Page:  
Bates Range BST000116 - B ST000126  
Bates Range BST000128 - B ST000138

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