

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition to review and cancel, or in the alternative immediately suspend or postpone, BellSouth Telecommunications, Inc.'s PreferredPack Plan tariffs, by Supra Telecommunications and Information Systems, Inc.

DOCKET NO. 040353-TP
ORDER NO. PSC-04-0871-CFO-TP
ISSUED: September 3, 2004

ORDER GRANTING BELL SOUTH'S REQUESTS FOR CONFIDENTIAL CLASSIFICATION OF DOCUMENT NOS. 07356-04; 08970-04; 09040-04; 09152-04

Pursuant to Rule 28-106.211, Florida Administrative Code, this Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

On April 20, 2004, Supra Telecommunications & Information Systems, Inc. (Supra) filed its Petition to Review and Cancel BellSouth's Promotional Offering Tariffs offered in conjunction with its new flat rate service known as the Preferred Pack Plan. On May 17, 2004, BellSouth Telecommunications, Inc. (BellSouth) filed its Answer to the Supra's Petition. On May 27, 2004, I issued an Order to Initiate Expedited Discovery Procedure, Order No. PSC-04-0549-PCO-TP.

On May 28, 2004, the Florida Public Service Commission Staff (Staff) served its First Set of Interrogatories (Nos. 1-14) and Request for Production of Documents (Nos. 1-4) to BellSouth. On June 14, 2004, BellSouth filed its Response to Staff's First Set of Interrogatories (Nos. 1-14) and Request for Production of Documents (Nos. 1-4). BellSouth filed simultaneously a Notice of Intent seeking confidential classification of BellSouth's Responses to Staff's First Set of Interrogatories, Nos. 3, 4, and 11 and BellSouth's Response to Staff's First Request for Production of Documents, No. 1. (Document No. 07356-04). Attachment A contains an explanation of the proprietary information along with a list identifying the location of the information designated by BellSouth as confidential. On July 6, 2004, BellSouth filed its Request for Specified Confidential Classification of BellSouth's Response to Staff's First Set of Interrogatories, Nos. 3, 4, and 11, and First Request for Production, No. 1, filed June 14, 2004, in Florida Docket No. 040353-TP.

On June 2, 2004, Supra served its First Set of Interrogatories (Nos. 1-13) and First Request for Production of Documents (Nos. 1-14) to BellSouth. On June 14, 2004, BellSouth filed its Responses to Supra's First Set of Interrogatories (Nos. 1-13) and First Request for Production Documents (Nos. 1-14). On July 28, 2004, BellSouth filed a Notice of Intent for portions of BellSouth's Response to Supra's First Set of Interrogatories, Nos. 3, 4, 7, 8, and 10 and Request for Production Nos. 1, 3, 4, and 5. (Document No. 08970-04) Attachment B contains an explanation of the proprietary information along with a list identifying the location of the information designated by BellSouth as confidential. On August 18, 2004, BellSouth filed its

DOCUMENT NUMBER-DATE

09704 SEP-3 3

FPSC-COMMISSION CLERK

ORDER NO. PSC-04-0871-CFO-TP
DOCKET NO. 040353-TP
PAGE 2

Request for Specified Confidential Classification of BellSouth's Response to Supra's First Set of Interrogatories, Nos. 3, 4, 7, 8 and 10 and Requests for Production, Nos. 1, 3, 4 and 5, filed June 14, 2004, in Florida Docket No. 040353-TP.

On July 7, 2004, Staff served its Second Set of Interrogatories (Nos. 15-25) to BellSouth. On July 26, 2004, BellSouth filed its Response to Staff's Second Set of Interrogatories (Nos. 15-25). On July 27, 2004, BellSouth filed a Notice of Intent seeking confidential classification of BellSouth's Responses to Staff's Second Set of Interrogatories, Nos. 16 and 21. (Document No. 09040-04) Attachment C contains an explanation of the proprietary information along with a list identifying the location of the information designated by BellSouth as confidential. On August 17, 2004, BellSouth filed its Request for Specified Confidential Classification of BellSouth's Response to Staff's Second Set of Interrogatories, Nos. 16 and 21, filed June 26, 2004, in Florida Docket No. 040353-TP.

On July 16 2004, Supra served its Third Set of Interrogatories (Nos. 28-30) and Third Request for Production of Documents (Nos. 17-18) to BellSouth. On July 30, 2004, BellSouth filed its Responses to Supra's Third Set of Interrogatories (Nos. 28-30) and Third Request for Production of Documents (Nos. 17-18). BellSouth filed simultaneously a Notice of Intent seeking confidential classification of BellSouth's Responses to Supra's Third Set of Interrogatories, Nos. 28 and 30. (Document No. 09152-04) Attachment D contains an explanation of the proprietary information along with a list identifying the location of the information designated by BellSouth as confidential. On August 20, 2004, BellSouth filed its Request for Specified Confidential Classification of BellSouth's Response to Supra's Third Set of Interrogatories, Nos. 28 and 30, filed July 30, 2004, in Florida Docket No. 040353-TP.

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.

BellSouth seeks Confidential Classification pursuant to Section 364.183, Florida Statute. 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 the 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 artificial competitive advantage, allowing them to successfully compete against BellSouth without the usual market trial and error. As such, BellSouth's Requests for Confidential Classification of Documents Nos. 07356-04, 08970-04, 09040-04, 09152-04.

Based on the foregoing, it is

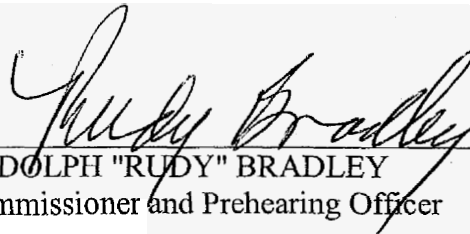
ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that BellSouth Telecommunications, Inc.'s Requests For Confidential Classification of Documents Nos. 07356-04; 08970-04; 09040-04; 09152-04, as set forth in Attachment A, B, C, and D is hereby granted. It is further

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 Order, in the absence of a renewed request for confidentiality pursuant to Section 364.183, Florida Statutes. It is further

ORDERED that this Order shall will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

ORDER NO. PSC-04-0871-CFO-TP
DOCKET NO. 040353-TP
PAGE 4

By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this
3rd day of September, 2004.



RUDOLPH "RUDY" BRADLEY
Commissioner and Prehearing Officer

(SEAL)

DRG

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, 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.

ORDER NO. PSC-04-0871-CFO-TP
DOCKET NO. 040353-TP
PAGE 5

ATTACHMENT A

BellSouth Telecommunications, Inc.
FPSC Docket No. 040353-TP
Request for Confidential Classification
Page 2 of 2
7/6/04

**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S RESPONSE
TO STAFF'S FIRST SET OF INTERROGATORIES, NOS. 3, 4 AND 11, AND FIRST
REQUEST FOR PRODUCTION, NO. 1, FILED JUNE 14, 2004, IN FLORIDA DOCKET
NO. 040353-TP**

Location

Reason

Interrogatory No. 4

Response:

Page 2 of 3-

1

Subpart a), First and Second Line

Subpart c), Third Line

Subpart f), Fifth Line

Page 3 of 3-

Subpart g), Eighth Line

Subpart h), Second Line

Subpart i), Third, Fourth, Fifth, Sixth, Eighth, Tenth, Eleventh and Twelfth Lines

Interrogatory No. 11

Response:

Page 1 of 1-

1

Subpart a), Second Line

Subpart b), Second Line

Location

Reason

POD No. 1

Entire Document

1

BellSouth Telecommunications, Inc.
FPSC Docket No. 040353-TP
Request for Confidential Classification
Page 1 of 2
8/18/04

**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S RESPONSE
TO SUPRA'S FIRST SET OF INTERROGATORIES, NOS. 3, 4, 7, 8 AND 10 AND
REQUESTS FOR PRODUCTION NOS. 1, 3, 4 AND 5, FILED JUNE 14, 2004, IN
FLORIDA DOCKET NO. 040353-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.

Location

Reason

Interrogatory No. 3

2nd Paragraph of RESPONSE:
Line 6

1

Interrogatory No. 4

1st Paragraph of RESPONSE:
Lines 2, 3, 4 and 10

1

BellSouth Telecommunications, Inc.
FPSC Docket No. 040353-TP
Request for Confidential Classification
Page 1 of 1
8/17/04

**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELL SOUTH'S RESPONSE
TO STAFF'S SECOND SET OF INTERROGATORIES, NOS. 16 AND 21, FILED JUNE
26, 2004, IN FLORIDA DOCKET NO. 040353-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.

Location

Reason

Interrogatory No. 16

2nd Paragraph of RESPONSE:
Lines 5 and 8

1

Interrogatory No. 21

2nd Paragraph of RESPONSE:
Lines 3 and 6

1

BellSouth Telecommunications, Inc.
FPSC Docket No. 040353-TP
Request for Confidential Classification
Page 1 of 1
8/20/04

**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S RESPONSE
TO SUPRA'S THIRD SET OF INTERROGATORIES, NOS. 28 AND 30, FILED JULY
30, 2004, IN FLORIDA DOCKET NO. 040353-TP**

Explanation of Proprietary Information

1. This information contains confidential business information related to competitive interests of BellSouth that is proprietary 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.

Location

Reason

Interrogatory No. 28

Subparts (i)-(vii) of RESPONSE:

1

Interrogatory No. 30

1st Paragraph of RESPONSE:
Line 4

1