

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Complaint against BellSouth Telecommunications, Inc. for alleged overbilling and discontinuance of service, and petition for emergency order restoring service, by IDS Telecom LLC.	DOCKET NO. 031125-TP ORDER NO. PSC-04-0919-CFO-TP ISSUED: September 20, 2004
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ORDER GRANTING BELLSOUTH'S REQUEST FOR SPECIFIED CONFIDENTIAL CLASSIFICATION FOR DOCUMENT NO. 08806-04

On December 30, 2003, IDS amended its Complaint (Amended Complaint) consisting of five counts upon which it requested relief. By Order No. PSC-04-0423-FOF-TP, issued April 26, 2004, BellSouth's Partial Motion to Dismiss part of IDS' Amended Complaint was granted. By Order No. PSC-04-0472-PCO-TP, issued May 6, 2004 (Order Establishing Procedure), the procedure was established for this proceeding and the hearing date was scheduled for October 14, 2004. By Order No. PSC-04-0625-PCO-TP, issued June 25, 2004, the Order Establishing Procedure was modified to reschedule to earlier dates the hearing, prehearing, and key activities dates. By Order No. PSC-04-0835-PCO-TP, issued August 27, 2004, the Joint Motion for Continuance to hold this matter in abeyance for a 30 day period and to reschedule the hearing, prehearing, and other key activities dates was granted.

On August 12, 2004, BellSouth filed its Request for Specified Confidential Classification for the Direct Testimony of David F. Melton, Jr. and Exhibit DM-1, Document No. 08806-04. Attachment A, attached hereto and incorporated herein, contains a detailed justification of the confidentiality of the information at issue. BellSouth states that this documents should be classified as proprietary, confidential business information pursuant to Section 364.183(3)(e), Florida Statutes, and is exempt from the Open Records Act. BellSouth asserts that this information is valuable, BellSouth treats this private financial information as confidential in all requests, 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 confidential information, the disclosure of which will cause the Company or its ratepayers harm.

DOCUMENT NUMBER-DATE

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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 Specified Confidential Classification of Document No. 08806-04 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 Specified Confidential Classification of Document No. 08806-04, as set forth in Attachment A, is hereby granted and incorporated by reference into this Order. 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 will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

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By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 20th day of September, 2004


J. TERRY DEASON
Commissioner and Prehearing Officer

(S E A L)

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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, 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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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF THE DIRECT TESTIMONY
OF DAVID F. MELTON, JR. AND EXHIBIT DM-1 AS FILED ON JULY 22, 2004, IN
FLORIDA DOCKET NO. 031125-TP**

Explanation of Proprietary Information

1. This information contains competitive business information, in particular documents relating to confidential settlement agreements. In addition, this information relates to IDS's financial well-being. IDS presumably considers this information to be confidential, proprietary business information. Disclosure of this data would impair the competitive business of, and cause harm to, IDS. Consequently, this information should be classified as proprietary, confidential business information pursuant to Section 364.183(3)(e), Florida Statutes and is exempt from the Open Records Act.

Location

Reason

Direct Testimony of David Melton

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Page 4, Lines 1-8

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Page 10, Line 9

1

Exhibit DM-1

Entire Document

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