

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Complaint of XO Florida, Inc. against BellSouth Telecommunications, Inc. for alleged refusal to convert circuits to UNEs; and request for expedited processing.

DOCKET NO. 041114-TP
ORDER NO. PSC-05-0213-CFO-TP
ISSUED: February 23, 2005

ORDER GRANTING REQUEST FOR SPECIFIED CONFIDENTIAL CLASSIFICATION OF SPECIFIED BELLSOUTH TELECOMMUNICATIONS, INC. DOCUMENTS

I. Case Background

On September 22, 2004, XO Florida, Inc. filed a complaint against BellSouth Telecommunications, Inc. for alleged refusal to convert special access circuits to UNEs and request for expedited processing. By Order No. PSC-04-1068-PCO-TP, XO's request for expedited processing was denied. Subsequently, pursuant to Order No. PSC-04-1147-PCO-TP, this matter has been set for an administrative hearing.

BellSouth Telecommunications, Inc. (BellSouth) has filed numerous Requests for Specified Confidential Classification for certain documents. BellSouth later consolidated these requests in two replacement filings listed below. The chart below shows the date of the request and the document at issue.

Date of Request	Document No.	Attachment
January 31, 2005	01105-05 (x-ref - 13229-04; 00203-05; 00330-05)	A
January 31, 2005	01107-05 (x-ref - 13128-04; 00045-05; 00328-05)	B

II. Analysis

In its request, BellSouth asks for protection of the specific pages and line numbers as set forth in Attachments A and B, which are attached and incorporated in this Order by reference. BellSouth contends that release of this information would provide its competitors with an undue competitive advantage in that they would have access to this competitively sensitive, confidential information.

DOCUMENT NUMBER-DATE

01883 FEB 23 05

FPSC-COMMISSION CLERK

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, states that "proprietary confidential business information" is:

[o]wned 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 information for which BellSouth seeks confidential classification is information that, if disclosed, would cause harm to BellSouth's competitive interests and its business operations. Thus, this information qualifies as proprietary confidential business information under Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. As such, BellSouth's request for confidential classification is hereby granted.

Based on the foregoing, it is


ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that BellSouth Florida, Inc.'s Requests for Specified Confidential Classification of the referenced documents as set forth herein are hereby granted. It is further

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 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 23rd day of February, 2005.


J. TERRY DEASON
Commissioner and Prehearing Officer

(S E A L)

JPR

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.

ATTACHMENT A

BellSouth Telecommunications, Inc.
FPSC Docket No. 041114-TP
Request for Confidential Classification
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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELL SOUTH'S RESPONSE
TO XO'S FIRST SET OF INTERROGATORIES, ITEM NO. 5 AND FIRST REQUEST
FOR PRODUCTION, NOS. 1 AND 7, FILED DECEMBER 15, 2004, IN FLORIDA
DOCKET NO. 041114-TP**

Explanation of Proprietary Information

1. This information contains competitive, business information. This information is valuable, it is used by BellSouth in conducting its business and BellSouth strives to keep it secret. Therefore, such information is a trade secret which 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.
2. 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.
3. This material is proprietary and confidential business information of a technical nature used by BellSouth in conducting its business and not commonly known by or available to the public. BellSouth derives economic value from this information not being generally known to, and not being readily ascertainable by competitors who can obtain economic value from its disclosure. Specifically, BellSouth's internal procedures for *Implementation of Single Network Element-Switch As-Is (SNE-SAI)*; *Single Network Element SPA to UNE (SNESAI) Conversion Marketing Service Description* provide description, service restrictions, appropriate forms, service order issuance requirements, installation intervals, repair procedures, etc. that are proprietary and confidential to BellSouth as it describes BellSouth's internal operations. Additionally, the information contains forecasted demand data and BellSouth's strategic schedule of deployment which competitors could use to gain an economic advantage.

Furthermore, this information has been prepared at great cost to BellSouth and therefore, others should not be permitted to gain the noncompetitive benefit from not having to develop these instructions and materials themselves. And, job aids have historically been protected by the Florida Public Service Commission. Therefore, this information is entitled to confidential classification pursuant to Section 364.183(3)(e) of the Florida Statute.

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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S RESPONSE
TO XO'S FIRST SET OF INTERROGATORIES, ITEM NO. 5 AND FIRST REQUEST
FOR PRODUCTION, NOS. 1 AND 7, FILED DECEMBER 15, 2004, IN FLORIDA
DOCKET NO. 041114-TP**

<u>Location</u>	<u>Reason</u>
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INTERROGATORY NO. 5

Lines 4 and 5 of Response	1 and 2
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POD NO. 1

Document GG (Bates XO1STPODNO1000512)

Columns B-L, Lines 3-35	1
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Document II

XO1stPODNO1000553, lines 6-28	3
XO1stPODNO1000554, lines 6-44	3
XO1stPODNO1000555, lines 6-30	3
XO1stPODNO1000556, lines 6-42	3
XO1stPODNO1000557, lines 6-27	3
XO1stPODNO1000558, lines 6-18	3
XO1stPODNO1000560, lines 2-26	3
XO1stPODNO1000561, lines 2-36	3
XO1stPODNO1000562, lines 2-14	3
XO1stPODNO1000563, lines 2-33	3
XO1stPODNO1000564, lines 2-13	3
XO1stPODNO1000565, lines 2-40	3
XO1stPODNO1000566, lines 2-34	3
XO1stPODNO1000567, lines 2-28	3
XO1stPODNO1000568, lines 2-31	3
XO1stPODNO1000569, lines 2-22	3

ATTACHMENT A

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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S RESPONSE
TO XO'S FIRST SET OF INTERROGATORIES, ITEM NO. 5 AND FIRST REQUEST
FOR PRODUCTION, NOs. 1 AND 7, FILED DECEMBER 15, 2004, IN FLORIDA
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Document II (cont)

XO1stPODNO1000570, lines 2-10	3
XO1stPODNO1000571, lines 2-29	3
XO1stPODNO1000572, lines 2-9	3
XO1stPODNO1000573, lines 2-27	3
XO1stPODNO1000574, lines 2-25	3
XO1stPODNO1000575, lines 2-15	3
XO1stPODNO1000576, lines 6-33	3
XO1stPODNO1000577, lines 2-25	3
XO1stPODNO1000578, lines 2-24	3
XO1stPODNO1000579, lines 5-33	3

DOCUMENT JJ

XO1stPODNO1000581, lines 2-41	3
XO1stPODNO1000582, lines 2-24	3
XO1stPODNO1000583, lines 2-8	3
XO1stPODNO1000584, lines 2-52	3
XO1stPODNO1000585, lines 2-51	3
XO1stPODNO1000586, lines 2-29	3
XO1stPODNO1000587, lines 2-69	3
XO1stPODNO1000588, lines 2-71	3
XO1stPODNO1000589, lines 2-26	3

POD NO. 7

Entire Document	2
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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELL SOUTH'S RESPONSE
TO STAFF'S FIRST REQUEST FOR PRODUCTION, NO. 1, FILED DECEMBER 13,
2004, IN FLORIDA DOCKET NO. 041114-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 material is proprietary and confidential business information of a technical nature used by BellSouth in conducting its business and not commonly known by or available to the public. BellSouth derives economic value from this information not being generally known to, and not being readily ascertainable by competitors who can obtain economic value from its disclosure. Specifically, BellSouth's internal procedures for *Implementation of Single Network Element-Switch As-Is (SNE-SAI)*; *Single Network Element SPA to UNE (SNESAI) Conversion Marketing Service Description* provide description, service restrictions, appropriate forms, service order issuance requirements, installation intervals, repair procedures, etc. that are proprietary and confidential to BellSouth as it describes BellSouth's internal operations. Additionally, the information contains forecasted demand data and BellSouth's strategic schedule of deployment which competitors could use to gain an economic advantage.

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TO STAFF'S FIRST REQUEST FOR PRODUCTION, NO. 1, FILED DECEMBER 13,
2004, IN FLORIDA DOCKET NO. 041114-TP**

<u>Location</u>	<u>Reason</u>
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POD NO. 1

Document GG (Bates STFF1STPOD000512)

Columns B-L, Lines 3-35	1
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Document II

STFF1stPOD000553, lines 6-28	2
STFF1stPOD000554, lines 6-44	2
STFF1stPOD000555, lines 6-30	2
STFF1stPOD000556, lines 6-42	2
STFF1stPOD000557, lines 6-27	2
STFF1stPOD000558, lines 6-18	2
STFF1stPOD000560, lines 2-26	2
STFF1stPOD000561, lines 2-36	2
STFF1stPOD000562, lines 2-14	2
STFF1stPOD000563, lines 2-33	2
STFF1stPOD000564, lines 2-13	2
STFF1stPOD000565, lines 2-40	2
STFF1stPOD000566, lines 2-34	2
STFF1stPOD000567, lines 2-28	2
STFF1stPOD000568, lines 2-31	2
STFF1stPOD000569, lines 2-22	2
STFF1stPOD000570, lines 2-10	2
STFF1stPOD000571, lines 2-29	2
STFF1stPOD000572, lines 2-9	2
STFF1stPOD000573, lines 2-27	2
STFF1stPOD000574, lines 2-25	2

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2004, IN FLORIDA DOCKET NO. 041114-TP**

DOCUMENT II (CONT)

STFF1stPOD000575, lines 2-15	2
STFF1stPOD000576, lines 6-33	2
STFF1stPOD000577, lines 2-25	2
STFF1stPOD000578, lines 2-24	2
STFF1stPOD000579, lines 5-33	2

DOCUMENT JJ

STFF1stPOD000581, lines 2-41	2
STFF1stPOD000582, lines 2-24	2
STFF1stPOD000583, lines 2-8	2
STFF1stPOD000584, lines 2-52	2
STFF1stPOD000585, lines 2-51	2
STFF1stPOD000586, lines 2-29	2
STFF1stPOD000587, lines 2-69	2
STFF1stPOD000588, lines 2-71	2
STFF1stPOD000589, lines 2-26	2