

MEMORANDUM

March 14, 2005

TO: DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES

FROM: OFFICE OF THE GENERAL COUNSEL (BANKS) *FRB*

RE: DOCKET NO. DOCKET NO. 041270-TI - REQUEST FOR SPECIFIED CONFIDENTIAL CLASSIFICATION OF HIGHLIGHTED VERSION OF REPORT IN RESPONSE TO COMPLAINT INQUIRY, BY AT&T COMMUNICATIONS OF THE SOUTHERN STATES, LLC.

Attached is an ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION OF DOCUMENT NO. 11104-04 (CROSS REFERENCED DOCUMENT NOS. 11687-04 AND 11755-04), with attachments, to be issued in the above-referenced docket. (Number of pages in order - 3)

DATE ORDER SENT ELECTRONICALLY TO CCA

3-14-05

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Attachment
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DOCUMENT NUMBER-DATE
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FPSC-COMMISSION CLERK

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Request for specified confidential classification of highlighted version of report in response to complaint inquiry, by AT&T Communications of the Southern States, LLC.

DOCKET NO. 041270-TI
ORDER NO. PSC-05-0275-CFO-TI
ISSUED: March 15, 2005

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION OF DOCUMENT NO. 11104-04 (CROSS REFERENCED DOCUMENT NOS. 11687-04 AND 11755-04)

On October 14, 2004, AT&T Communications of the Southern States, LLC (AT&T) filed its report in response to the Commission Staff's inquiry on certain customer complaints and claimed its report to be confidential. On October 28, 2004, AT&T filed a letter regarding the customer complaints indicating that it would file a request for confidential classification. By letter and request dated November 1, 2004, AT&T filed a Request for Confidential Classification of Document No. 11104-04. Noticing deficiencies in its pleading, on December 22, 2004, AT&T advised Commission Staff that it would file an Amended Request for Confidential Classification.

On February 9, 2005, AT&T filed its Amended Request for Confidential Classification for its report in response to Commission Staff's inquiry to certain customer complaints. In AT&T's Amended Request for Confidential Classification, it states it is requesting confidential classification of Document No. 11104-04 (cross referenced Document Nos. 11687-04 and 11755-04). Therein, AT&T maintains that portions of its report (Page 7, Lines 12-17 and page 8, Lines 25-30) are confidential. AT&T states that the information is confidential because it is trade secret business information pursuant to Section 364.183(3), Florida Statutes. AT&T explains that pursuant to Section 688.002(4), Florida Statutes, a trade secret is generally defined as information, including a formula, pattern, compilation, program, device or method that derives economic value from not generally being known and is the subject of efforts to maintain its secrecy. AT&T contends that the information in its report regarding security measures and internal processes of AT&T for customer complaints is a trade secret. As such, AT&T believes the information should be protected because disclosure of such information would cause harm to AT&T.

Pursuant to Section 119.01, Florida Statutes, documents submitted to this Commission are public records. This presumption is based on the concept that government should operate in the "sunshine." The right of access to governmental records is an important and longstanding Florida tradition embodied in both Florida Statutes and the Declaration of Rights provision of the state Constitution. The Public Records Law is to be liberally construed in favor of open government, and exemptions from disclosure are to be narrowly construed so they are limited to their stated purpose. Seminole County v. Wood, 512 So. 2d 1000 (Fla. 5th DCA 1987), *rev.*

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

denied 520 So. 2d 586 (Fla. 1986). The determination of whether information is proprietary confidential business information is a matter of discretion. Florida Society of Newspaper Editors, Inc. v. Florida Public Service Commission, 543 So. 2d 1262, 1265 (1st DCA 1989) *rehearing den.* June 12, 1989. When determining whether information should be deemed confidential, the Commission should weigh the public interest in disclosing the information with the potential harm to the entity if the information were disclosed.

The only exceptions to the presumption that documents should be accessible to the public are the specific statutory exemptions provided in the law and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. Rule 25-22.006(4)(c), Florida Administrative Code, provides that the Company must either demonstrate that the documents fall within one of the statutory examples of "proprietary confidential business information" as defined by Section 364.183(3), Florida Statutes, or, if none of the examples are applicable, show that disclosure of the information will harm the Company's ratepayers or its business operations.

Upon consideration, the document for which AT&T requests confidentiality appears to meet the definition of proprietary confidential business information in Section 364.183(3), Florida Statutes, and consist of trade secrets as contemplated by this Section. This information shall, therefore, be granted confidential classification.

Based on the foregoing, it is

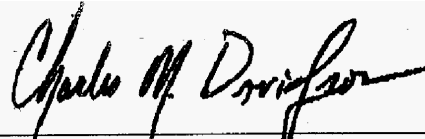
ORDERED by Commissioner Charles M. Davidson, as Prehearing Officer, that AT&T Communications of the Southern States, LLC's Request for Confidential Classification for portions of its report to Commission Staff regarding certain customer complaints, Document No. 11104-04 and cross referenced Document Nos. 11687-04 and 11755-04, is 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 documents 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. It is further

ORDERED that this Docket shall be closed.

By ORDER of Commissioner Charles M. Davidson, as Prehearing Officer, this 15th
day of March, 2005



CHARLES M. DAVIDSON
Commissioner and Prehearing Officer

(S E A L)

FRB

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, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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.