

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Complaint against BellSouth Telecommunications, Inc. seeking resolution of monetary dispute regarding alleged overbilling under interconnection agreement, and requesting stay to prohibit any discontinuance of service pending resolution of matter, by Saturn Telecommunications Services, Inc. d/b/a STS Telecom.

DOCKET NO. 040732-TP
ORDER NO. PSC-05-0353-CFO-TP
ISSUED: April 1, 2005

ORDER DENYING CONFIDENTIALITY REQUEST

On July 12, 2004, Saturn Telecommunications Services, Inc. d/b/a STS Telecom, LLC (STS) filed its Complaint Against BellSouth Telecommunications, Inc. (BellSouth), seeking resolution of a monetary dispute regarding alleged overbilling under interconnection agreement, and requesting stay to prohibit any discontinuance of service pending resolution of the matter. On February 14, 2005, BellSouth filed its Motion for Summary Final Order on that Complaint.

On March 4, 2005, STS filed its Response in Opposition to BellSouth's Motion for Summary Final Order. Attached to that Motion was an affidavit executed by Jon Krutchik. On March 21, 2005, STS filed its Request for Specified Confidential Classification of all documents attached to the Affidavit of Jon Krutchik, which had been filed on March 4, 2005, Document No. 02273-05.

I note that the subject information has already been made a matter of public record upon filing without claim of confidentiality, and as such, cannot now be classified as confidential. STS itself has already disclosed this information to Commission staff and this information has otherwise been communicated publicly within the Commission.

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, 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

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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. (Emphasis added)


In the present case, the subject affidavit submitted by STS on March 4, 2005, was submitted as a public document, and as such, became a matter of the public record. Once disclosed, it is not possible to "put the chicken back in the egg" so to speak. The information has been disclosed and such disclosure was not made pursuant to ". . . a statutory provision, an order of a court or administrative body, or private agreement," as allowed by Section 364.183, Florida Statutes.

Based on the foregoing, I find that the Request for Confidential Classification was not timely filed and may not now be granted retroactively. Accordingly, STS' Request for Confidential Classification of the attachments to the affidavit of Jon Krutchik, Document No. 02273-05, is denied.

It is, therefore

ORDERED by Commissioner Charles M. Davidson, as Prehearing Officer, that Saturn Telecommunications Services, Inc. d/b/a STS Telecom, LLC's Request for Confidential Classification of the attachments to the affidavit of Jon Krutchik is hereby denied.

By ORDER of Commissioner Charles M. Davidson, as Prehearing Officer, this 1st day of April, 2005.



CHARLES M. DAVIDSON
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.