

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Complaint of Supra Telecommunications and Information Systems, Inc. against BellSouth Telecommunications, Inc.

DOCKET NO. 040301-TP

In re: Joint petition by ITC^DeltaCom Communications, Inc. d/b/a ITC^DeltaCom d/b/a Grapevine; Birch Telecom of the South, Inc. d/b/a Birch Telecom and d/b/a Birch; DIECA Communications, Inc. d/b/a Covad Communications Company; Florida Digital Network, Inc.; LecStar Telecom, Inc.; MCI Communications, Inc.; and Network Telephone Corporation ("Joint CLECs") for generic proceeding to set rates, terms, and conditions for hot cuts and batch hot cuts for UNE-P to UNE-L conversions and for retail to UNE-L conversions in BellSouth Telecommunications, Inc. service area.

DOCKET NO. 041338-TP
ORDER NO. PSC-05-0696-CFO-TP
ISSUED: June 24, 2005

ORDER GRANTING Bellsouth Telecommunications, Inc.'s
REQUESTS FOR CONFIDENTIALITY FOR DOCUMENT NOS. 11685-04; 10842-04;
10757-04; 10019-04; 10082-04; 12096-04; 11327-04; 12557-04 and 12234-04

BY THE COMMISSION:

This Order is issued pursuant to the authority granted by Rule 28-106.211, Florida Administrative Code, which provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy and inexpensive determination of all aspects of the case.

I. Background:

BellSouth Telecommunications, Inc. (BellSouth) filed four Requests for Confidential Classification (RCC). The first RCC was filed on October 6, 2004, for Document Nos. 11685-04 (cross referencing document 10842-04). These documents are BellSouth's Responses to Supra Telecommunications and Information Systems, Inc.'s (Supra) First Request for Production. BellSouth's second RCC was filed on October 28, 2004, for Document Nos. 10757-04 (see also Document Nos. 10019-04 and 10082-04). The documents were filed in Response to Supra's Second Request for Production of Documents. The documents contain line counts for specific service categories and locations, as well as system utilization data. BellSouth filed its third RCC on November 10, 2004, for Document No. 12096-04 (cross referencing Document No. 11327-04). The document contains detailed internal procedures for provisioning Unbundled

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Network Elements. BellSouth's fourth RCC was filed on November 23, 2004, for Document Nos. 12557-04 and 12234-04. These documents contain BellSouth's service order activity data and claimed as a trade secret by the company.

II. Standard:

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. 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 the 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.

III. Decision

Upon review and consideration, BellSouth's four Requests for Confidentiality are hereby granted. First, Document No. 11685-04 (cross referencing document 10842-04) is a switched equipment utilization report and shall remain confidential pursuant to Sections 364.183(3)(a) and 364.183(3)(e), Florida Statutes. The information is a trade secret and the disclosure of which would impair the competitive business of the company.

BellSouth's second RCC is granted pursuant to Section 364.183(3)(e), Florida Statutes, because Document No. 10757-04 (see also Document Nos. 10019-04 and 10082-04) contains competitive business information that if disclosed, would impair the competitive business of BellSouth. The competitive business information at issue is line counts for specific service categories and locations, as well as system utilization data.

BellSouth's third RCC for Document No. 12096-04 (cross referencing Document No. 11327-04) is granted because it contains detailed internal procedures for provisioning Unbundled Network Elements. Pursuant to Section 364.183(3)(e), Florida Statutes, these procedures are proprietary confidential business information because the disclosure of which would impair the competitive business of BellSouth.

Last, BellSouth's fourth RCC for Document Nos. 12557-04 and 12234-04 is granted because the documents contain service order activity data thereby making it a trade secret as contemplated by Section 364.183(3)(a), Florida Statutes. In addition, the information is granted confidential status pursuant to Section 364.183(3)(e), Florida Statutes, because the disclosure of this data would harm the competitive business of BellSouth.

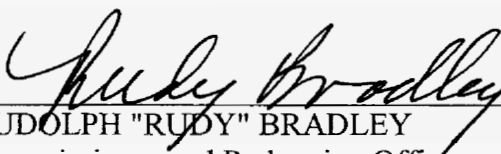
Based on the foregoing, it is

ORDERED by Commissioner Rudolph "Rudy" Bradley that BellSouth Telecommunications, Inc.'s Requests for Confidential Classification of Document Nos. 11685-04; 10842-04; 10757-04; 10019-04; 10082-04; 12096-04; 11327-04; 12557-04 and 12234-04. 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.

By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this 24th day of June, 2005


RUDOLPH "RUDY" BRADLEY
Commissioner and Prehearing Officer

(SEAL)

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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.