

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for arbitration of certain unresolved issues associated with negotiations for interconnection, collocation, and resale agreement with Florida Digital Network, Inc. d/b/a FDN Communications, by Sprint-Florida, Incorporated.

DOCKET NO. 041464-TP  
ORDER NO. PSC-05-0941-CFO-TP  
ISSUED: September 23, 2005

ORDER GRANTING SPRINT-FLORIDA, INCORPORATED'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION OF  
DOCUMENT NOS. 06103-05 AND 07643-05

**I. Case Background**

On December 30, 2004, Sprint-Florida, Incorporated (Sprint) filed its Petition for Arbitration of certain unresolved issues associated with negotiations for an Interconnection, Collocation, and Resale Agreement between itself and Florida Digital Network, Inc. d/b/a FDN Communications (FDN). On January 24, 2005, FDN filed its response to Sprint's Petition. An administrative hearing was held on this matter on August 4, 2005.

On August 25, 2005, Sprint filed a Request for Confidential Classification (Request) claiming that certain information contained in its Responses to Staff's First Set of Interrogatories and Request for Production of Documents should be exempt from Section 119.07, Florida Statutes, because the information is confidential pursuant to Sections 364.24 and 364.183(3)(e), Florida Statutes. Specifically, Sprint claims confidentiality for the highlighted information in Sprint's Response to Staff's Interrogatory Nos. 1, 36, and 38, and the highlighted information in Sprint's Response to Staff's Request for Production of Documents No. 2.

Sprint asserts in its Request that the information contained in the documents, or excerpts thereof, that are the subject of its Request is proprietary, confidential business information of Sprint. Further justification for confidential treatment of Document Nos. 06103-05 and 07643-05 is delineated in Attachment A to this Order.

**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

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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.

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. 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, if none of the examples are applicable, show that disclosure of the information will harm the Company's ratepayers or its business operations.

### **III. Ruling**

Upon consideration, Sprint's Request for Confidential Classification is hereby granted because it satisfies the criteria set forth in 364.183(3)(e), Florida Statutes. The information is proprietary, confidential business information of Sprint, which if made public, would impair the competitive business of Sprint. Additionally, the information includes FDN customer account information that Sprint is legally and contractually obligated to keep confidential.


Based on the foregoing, it is

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that Sprint-Florida, Incorporated's Request for Confidential Classification of Document Nos. 06103-05 and 07643-05, and as identified in Attachment A to this Order, is hereby granted. 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 shall be the only notification by the Commission to Sprint-Florida, Incorporated concerning the expiration of the confidentiality time period.

By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 23rd day of September, 2005.

  
J. TERRY DEASON  
Commissioner and Prehearing Officer

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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.

ATTACHMENT A

Document and page and line numbers	Justification for Confidential Treatment
Highlighted information in Response to Staff Interrogatory No. 1	This information is information relating to Sprint's competitive interests, the disclosure of which would impair the competitive business of Sprint. Section 364.183(3)(e), F.S.
Highlighted information in Response to Staff Interrogatory No. 36	This information is FDN customer account information that Sprint is required by law (s. 364.24, F.S.) and/or contract (Sprint's interconnection agreements) to keep confidential
Highlighted information in Response to Staff Interrogatory No. 38	This information is FDN customer account information that Sprint is required by law (s. 364.24, F.S.) and/or contract (Sprint's interconnection agreements) to keep confidential
Highlighted information on line 4, columns D-K of page 2, of Attachment to POD No. 2 labeled Summary of Business Access Lines by Wire Center for Florida	This information is information relating to Sprint's competitive interests, the disclosure of which would impair the competitive business of Sprint. Section 364.183(3)(e), F.S.