

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Joint petition by TDS Telecom d/b/a TDS Telecom/Quincy Telephone; ALLTEL Florida, Inc.; Northeast Florida Telephone Company d/b/a NEFCOM; GTC, Inc. d/b/a GT Com; Smart City Telecommunications, LLC d/b/a Smart City Telecom; ITS Telecommunications Systems, Inc.; and Frontier Communications of the South, LLC ["Joint Petitioners"] objecting to and requesting suspension and cancellation of proposed transit traffic service tariff filed by BellSouth Telecommunications, Inc.

DOCKET NO. 050119-TP

In re: Petition and complaint for suspension and cancellation of Transit Traffic Service Tariff No. FL2004-284 filed by BellSouth Telecommunications, Inc., by AT&T Communications of the Southern States, LLC.

DOCKET NO. 050125-TP
ORDER NO. PSC-06-0713-CFO-TP
ISSUED: August 24, 2006

ORDER GRANTING SMART CITY TELECOMMUNICATIONS, LLC D/B/A SMART CITY TELECOM AND FRONTIER COMMUNICATIONS OF THE SOUTH, LLC'S REQUEST FOR SPECIFIED CONFIDENTIAL CLASSIFICATION OF DOCUMENT NO. 02336-06 (X-REF DOCUMENT NO. 03081-06)

An administrative hearing was held in this matter on March 29-30, 2006.

On April 5, 2006, Smart City Telecommunications, LLC b/d/a Smart City Telecom (Smart City Telecom) and Frontier Communications of the South, LLC (Frontier Communications) filed a request for specified confidential classification. In their request, Smart City Telecom and Frontier Communications seek confidential classification of portions of the Small LECs'¹ Response to Staff's First Request for Production of Documents, Item No. 1, Document No. 02336 (x-ref Document No. 03081-06). Smart City Telecom and Frontier Communications assert that the information provided reflects total minutes of use to facility-based CLECs; total minutes of use to meet point billed CMRS providers; total originated transit traffic minutes of use; BellSouth Telecommunications, Inc.'s (BellSouth) estimated percent local usage factor; total transit traffic local minutes of use; and monthly transit payments to BellSouth commencing February 11, 2005 through January 31, 2006. Smart City Telecom and Frontier

¹ The Small LECs include TDS Telecom d/b/a TDS Telecom/Quincy Telephone; ALLTEL Florida, Inc.; Northeast Florida Telephone Company d/b/a NEFCOM; GTC, Inc. d/b/a GT Com; Smart City Telecommunications, LLC d/b/a Smart City Telecom; ITS Telecommunications Systems, Inc.; and Frontier Communications of the South, LLC. The request at issue concerns proprietary information of Smart City Telecom and Frontier Communications.

DOCUMENT NUMBER-DATE

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Communications state that they treat this information as confidential and that it has not otherwise been released.

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 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 material described herein is proprietary business information in accordance with Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. Disclosure of this information could harm Smart City Telecom and Frontier Communications by giving their competitors an unfair advantage in developing their own competitive strategies. As such, Smart City Telecom and Frontier Communications' Request for Specified Confidential Classification for portions of the information contained in their Response to Staff's First Request for Production of Documents, Item No. 1, Document No. 02336-06 (x-ref Document No. 03081-06) is hereby granted.


Based on the foregoing, it is

ORDERED by Commissioner Katrina J. Tew, as Prehearing Officer, that Smart City Telecommunications, LLC b/d/a Smart City Telecom and Frontier Communications of the South, LLC's Request for Specified Confidential Classification for portions of the information contained in Document No. 02336-06 (x-ref Document No. 03081-06) is 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 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 Katrina J. Tew, as Prehearing Officer, this 24th day of August, 2006.


KATRINA J. TEW
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.