

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Complaint by BellSouth Telecommunications, Inc. against Thrifty Call, Inc. regarding practices in the reporting of percent interstate usage for compensation for jurisdictional access services.

DOCKET NO. 000475-TP
ORDER NO. PSC-07-0679-CFO-TP
ISSUED: August 21, 2007

ORDER DENYING REQUEST FOR CONFIDENTIALITY

On February 10, 2006, Order No. PSC-06-0097-PCO-TP, Protective Order Governing Handling of Confidential Information and Order Granting Motions to Inspect Material and Rule on Pleadings (Protective Order) was issued. The Protective Order references Section 25-22.006(2)(b), F.A.C., which states that if such a Request is not timely filed, "confidentiality is waived and the material becomes subject to inspection and examination pursuant to Section 119.01(7), Florida Statutes." (Protective Order, p. 2) The Protective Order describes the material covered in Thrifty Call's claim: call identification data, Commission staff audit work papers, and report pages. (Protective Order, p. 1) However, because part of the material Thrifty Call claimed as confidential included customer account information, I ordered that "the call detail records information shall be afforded the confidential protection pursuant Section 364.1 83, Florida Statutes . . ." (Protective Order, p. 3)

Due to a scrivener's error, the Protective Order referenced the wrong Thrifty Call claim, Document No. 00984-2, filed January 25, 2002. This document (CDs of raw call data) was returned to Thrifty Call. The order should have referenced Thrifty Call's claim in Document No. 09605-04, filed September 1, 2004. The latter claim referenced the Staff Audit, 01-292-1 -1 and contained Documents 08536-04, 08537-04, and 08538-04. Only 08538-04 contains the call detail records with data field descriptions which were ordered to be confidential.

On June 26, 2007, AT&T Florida filed its Request For Specified Confidential Classification pursuant to Rule 25-22.006, F.A.C., and Section 364.183, Florida Statutes, for certain information contained in FPSC Document No. 04542-07. AT&T stated that its filing contained material found in Document No. 00984-02 (Thrifty Call CDs containing Call Detail Records) for which a Claim for Confidential Classification had been filed by Thrifty Call on January 25, 2002. The Request also stated that Commission Staff Audit report pages and work papers were contained in the information. Attached to AT&T Florida's Request, was another copy of the documents previously submitted with its Notice of Intent. This second copy was identified as FPSC Document No. 05092-07.

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

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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.

Since AT&T Florida's Motion for Summary Order and accompanying affidavit contain no call detail records, I hereby deny AT&T Florida's Request for Confidential Classification. The Commission Clerk shall declassify Document Nos. 08536-04, 08537-04, 09605-04 (except pages 48 through 48-18), 04542-07, and 05092-07.

I further note that the Protective Order extended the confidentiality of the call detail records, Document No. 08538-04 and pages 48 through 48-18 of Document No. 09605-04, for 18 months. This extension shall expire August 10, 2007, absent a renewed request for confidentiality.

Based on the foregoing, it is


ORDERED by Matthew M. Carter II, as Prehearing Officer, that BellSouth Telecommunications, Inc. d/b/a AT&T Florida's Request For Specified Confidential Classification pursuant to Rule 25-22.006, F.A.C., and Section 364.183, Florida Statutes, for certain information contained in FPSC Document No. 04542-07 is denied as set forth in the body of this Order.

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By ORDER of Commissioner Matthew M. Carter II, as Prehearing Officer, this 21st day of August, 2007.



MATTHEW M. CARTER II
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 Office of Commission Clerk, 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.