

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Development of local exchange company cost study methodology(ies). ) DOCKET NO. 900633-TL  
) ORDER NO. PSC-93-0686-CFO-TL  
) ISSUED: May 6, 1993

ORDER GRANTING IN PART AND DENYING IN PART  
REQUESTS FOR CONFIDENTIAL CLASSIFICATION  
OF DOCUMENTS NOS. 6256-91, 6709-91, 7806-91,  
7820-91, 8428-91, 9145-91, 9217-91 AND 10769-91

Under Section 119.01, Florida Statutes, documents submitted to governmental agencies are considered public records. The only exceptions to this law are specific statutory exemptions and exemptions granted by governmental agencies pursuant to specific statutory provisions. Pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, the burden of showing that the material submitted qualifies for specified confidential classification rests upon the party asserting confidentiality. According to Rule 25-22.006, Florida Administrative Code, that party may fulfill its burden by demonstrating that the documents fall into one of the statutory examples set forth in Section 364.183, Florida Statutes, or by demonstrating that the information is proprietary confidential information, the disclosure of which will cause the party or its ratepayers harm.

By Order No. 23474, issued September 12, 1990, this Commission initiated the instant proceeding to develop a uniform cost study methodology for local exchange companies.

As part of its investigation into this matter, the Staff of this Commission (Staff) made a number of data requests of GTE Florida Incorporated (GTEFL) and BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company (Bell). GTEFL and Bell responded to Staff's data requests by submitting Documents Nos. 6256-91, 6709-91, 7806-91, 7820-91, 8428-91, 9145-91, and 10769-91, each of which is discussed, separately, below.

Document No. 6256-91

Bell filed Document No. 6256-91 on June 21, 1991, along with a request for specified confidential classification. Bell argues that Document No. 6256-91 depicts the results of the switching cost information system (SCIS) program, which models engineering decisions made in building a central office switch. According to Bell, these results reflect the prices that Bell and its affiliates pay for central office hardware, information which is subject to

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nondisclosure agreements. Bell also argues that the information reflects vendor-specific prices and discounts, the disclosure of which would impair Bell's ability to contract for goods and services on favorable terms.

Upon review, it appears that this information, in the hands of other subscribers to SCIS, could allow such subscribers to determine the costs paid by Bell for switching equipment, giving them an unfair competitive advantage. Accordingly, Bell's request for confidential classification of these materials is granted.

Document No. 6709-91

Bell filed Document No. 6709-91 on July 3, 1991, as a supplement to Document No. 6256-91, discussed above. As with Document No. 6256-91, it appears that these materials could allow Bell's competitors to determine the costs for switching equipment, giving such competitors an unfair competitive advantage over Bell. Accordingly, these materials shall likewise be held confidential.

Document No. 7806-91

Bell filed Document No. 7806-91 on August 1, 1991, along with a request for specified confidential classification. As with Documents Nos. 6256-91 and 6709-91, Bell argues that these materials include input data, formulae, and vendor-specific pricing information used in the SCIS program. Accordingly, for the reasons given above, Bell's request for confidential classification should be and is hereby granted.

Document No. 7820-91

Document No. 7820-91 was submitted by Bell on August 2, 1991, along with a request for confidential classification. In support of its claim of confidentiality, Bell contends that Document No. 7820-91: reflects its costs of providing service; includes Centrex data; depicts proprietary program input and output data used by Bell in analyzing its products and services, and; includes information regarding competitive services and/or unregulated operations. As for the Centrex data, Bell notes that it does not relate to Touchtone service, DID service, or ESSX loops, information which this Commission has previously held not to be

confidential. Finally, Bell argues that the information is valuable to it, that it strives to maintain its confidentiality, and that it is, therefore, a trade secret which should be exempted from Chapter 119, Florida Statutes.

Upon review, it appears that these materials do, in fact, reflect Bell's costs to provide service, as well as costs for competitive and nonregulated services. If the materials were made public, it could give Bell's competitors an unfair advantage. Accordingly, Bell's request for confidential classification of these materials is hereby granted. Since this ruling resolves the matter, there is no need to reach Bell's argument regarding trade secrets.

Document No. 8428-91

GTEFL submitted Document No. 8428-91 on August 21, 1991, along with its request for confidential classification of the entire document. In support of its claim, GTEFL advanced four arguments. First, GTEFL asserts that the materials consist of algorithms and cost data which are representative of actual operations. Second, GTEFL argues that the information is a trade secret. Third, GTEFL argues that the materials consist of technical data derived from proprietary GTEFL cost models. Fourth, GTEFL argues that the models are intellectual properties, are copyrighted, and are subject to nondisclosure agreements.

Upon review, GTEFL's first, second, and fourth arguments might be more convincing had GTEFL submitted the actual models. However, no models or "algorithms" were either requested or provided. Accordingly, GTEFL's first and fourth arguments are not persuasive. As for GTEFL's second argument, in its own words, the information consists of data representative of actual operations. The purpose of these data is to illustrate, in a general manner, how the models are used to predict costs. Such representative data has no intrinsic value, either to GTEFL or any of its competitors and cannot, therefore, rise to the level of a "trade secret". Accordingly, GTEFL's second argument must too fail.

Notwithstanding the above, there are certain portions of Document No. 8428-91 which appear to qualify for specified confidential classification under its third argument. These include certain information regarding PC COSTMOD 2.1, a model developed by GTEFL to derive unit switching costs for the GTD-5

switch, and PC COSTMOD VS, an adjunct model that develops unit costs for switch-related vertical services. PC COSTMOD incorporates both vendor-provided proprietary information, provided to GTEFL subject to a nondisclosure agreement, and company-specific input data. These portions of Document No. 8428-91 could reveal certain cost characteristics and thus, could be of value to GTEFL's competitors. Accordingly, the following portions should be and are hereby granted confidential classification:

<u>ATTACHMENT</u>	<u>PAGE(S)</u>	<u>LINE(S)</u>
1-2	1	17-24
1-2	2	6-25
1-2	3,5,7,9	15-33
1-2	4,6,8,10	6-41
1-2	11,12,14,15	9-20,23-34
1-2	13,16	7-18
1-2	17	6-8,10-17, 19-25,28-32
2-1	COSTMOD INPUT (Screen Display)	26-32
2-3/2-4	N/A	22-28
2-5/2-6	N/A	ALL
2-8	N/A	ALL
3-1	N/A	ALL
4-1	N/A	ALL

Document No. 9145-91

Document No. 9145-91 was filed by Bell on September 13, 1991, as an addendum to Document No. 7820-91. This document consists of revenue and cost information for inside wire, yellow pages, Centrex

services, and nonregulated services. As with Document No. 7820-91, disclosure of this information could provide valuable information to Bell's competitors, at the expense of Bell and its ratepayers. Bell's request for confidential classification of this document is, therefore, granted.

Document No. 9217-91

Document No. 9217-91 is another addendum to Document No. 7820-91, filed by Bell on September 16, 1991. The information contained in this document consists of a matrix of allocation factors used to determine to which services and in what proportion a particular expense and/or investment is assigned. Bell has requested that we treat as confidential all factors for inside wire, Yellow Pages, Centrex, and nonregulated services. Disclosure of these factors, coupled with the information provided in Document No. 7820-91, would enable Bell's competitors to derive the costs and relative profitability for these services. Bell's request for confidential classification should be, and is, therefore, granted.

Document No. 10769-91

Document No. 10769-91 was filed by Bell on October 28, 1991. Bell argues that this information consists of input and output data, as well as documentation of the algorithms associated with its 1990 exchange cost study. According to Bell the information could allow its competitors to discern the relative profitability of inside wire, Yellow Pages, Centrex, and nonregulated services.

Upon review, it appears that disclosure of this information could provide Bell's competitors with an unfair competitive advantage, to the detriment of Bell and its ratepayers. Accordingly, Bell's request for confidential classification is hereby granted.

Based upon the foregoing discussion, it is, therefore,

ORDERED by Chairman J. Terry Deason, as Prehearing Officer, that BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company's request for confidential classification of Document No. 6256-91 is hereby granted. It is further

ORDERED that BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company's request for confidential classification of Document No. 6709-91 is hereby granted. It is further

ORDERED that BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company's request for confidential classification of Document No. 7806-91 is hereby granted. It is further

ORDERED that BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company's request for confidential classification of Document No. 7820-91 is hereby granted. It is further

ORDERED that GTE Florida Incorporated's request for confidential classification of Document No. 8428-91 is hereby granted, in part, and denied, in part, as set forth in the body of this Order. It is further

ORDERED that BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company's request for confidential classification of Document No. 9145-91 is hereby granted. It is further

ORDERED that BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company's request for confidential classification of Document No. 9217-91 is hereby granted. It is further


ORDERED that BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company's request for confidential classification of Document No. 10769-91 is hereby granted. It is further

ORDERED that pursuant to Section 364.183(4), Florida Statutes, and Rule 25-22.006(8)(a), Florida Administrative Code, the confidentiality granted herein shall expire eighteen (18) months from the date of this Order, absent a renewed request for confidentiality pursuant to Section 364.183(4), 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 confidential classification.

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By Order of Chairman J. Terry Deason, as Prehearing Officer,  
this 6th day of May, 1993.

  
J. Terry Deason, Chairman  
and Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

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 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 Records and Reporting, 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

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review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.