

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Comprehensive review of revenue requirements and rate stabilization plan of SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY. ) DOCKET NO. 920260-TL  
In Re: Investigation into the integrity of SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S repair service activities and reports. ) DOCKET NO. 910163-TL  
In Re: Investigation into SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S compliance with Rule 25-4.110(2), F.A.C., Rebates. ) DOCKET NO. 910727-TL  
In Re: Show cause proceeding against SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY for misbilling customers. ) DOCKET NO. 900960-TL  
ORDER NO. PSC-93-0891-CFO-TL  
ISSUED: June 14, 1993

ORDER GRANTING, IN PART, AND DENYING, IN PART, REQUEST FOR CONFIDENTIAL CLASSIFICATION OF DOCUMENTS NOS. 13486-92 AND 1903-93

On June 2, 1992, the Staff of this Commission (Staff) served its second request for production of documents (POD) upon BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company (Bell). On November 17, 1992, Bell submitted its responses to POD Items 22, 23, 24A, 24G, 24H, 65, and 66, which were designated by this Commission as Documents Nos. 13485-92 through 13491-92, along with a request for confidential classification of these materials. On February 3, 1993, Staff informed Bell that there were certain deficiencies in Document No. 13486-92, Bell's response to POD Item No. 23. Accordingly, on February 17, 1993, Bell submitted a revised version of its response to the POD, which has been designated as Document No. 1903-93, along with a request for confidential classification of certain portions thereof. This Order pertains to Documents Nos. 13486-92 and 1903-93.

Under Section 119.01, Florida Statutes, documents submitted to this Commission are public records. The only exceptions to this law are specific statutory exemptions and exemptions granted by

DOCUMENT NUMBER-DATE

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governmental agencies pursuant to the specific terms of a statutory provision.

Pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, the burden of proving that the materials qualify for specified confidential classification falls upon Bell. According to Rule 25-22.006, Florida Administrative Code, Bell must meet this burden by demonstrating that the materials fall into one of the statutory examples set forth in Section 364.183, Florida Statutes, or by demonstrating that the information is proprietary confidential business information, the disclosure of which will cause Bell or its ratepayers harm.

The information for which Bell has requested confidential classification involves documents discussing or evaluating the impact of intraLATA competition on Bell's toll volume and revenue. These documents include various memoranda, letters, and presentation materials related to usage priced toll products and future plans to develop usage priced toll products. Bell has put forth several arguments in support of its request for confidentiality, each of which is discussed, separately, below.

Bell submitted 151 pages which it claims reflect vendor-specific pricing negotiated by Bell. According to Bell, disclosure of this information would impair its ability to contract for goods and/or services on favorable terms. Bell also requested confidential classification for 44 pages which it claims depict new services or capabilities that a vendor plans to use or offer in the future. Bell argues that, if this information is disclosed, vendors will be reluctant to provide such information to Bell in the future, impairing its ability to contract for goods, services and/or equipment.

Upon review, the materials do not contain, refer to, or in any way address vendor prices, services, or capabilities, either specifically or in general. Bell's request for confidential classification of these materials is, therefore, denied.

Bell submitted 13 pages which it claims depict its "market strategy." According to Bell, disclosure of these materials would allow its competitors to develop a counter-strategy, impairing Bell's ability to compete. Bell also argues that the information is valuable, that it is used by Bell in conducting its business, that Bell strives to keep it secret and that it is, therefore, a trade secret.

A review of these materials does not bear out Bell's claim. Most of these pages are copies of presentation materials. Although these materials may depict Bell's market strategies in a general sense, they contain no detail. Therefore, it does not appear that competitors could use this information to the detriment of Bell. Some of these pages consist of lists of activities that were scheduled to be completed in 1991 and 1992. Since the information is already out of date, it is difficult to see how disclosure would impair Bell's ability to compete. It should also be noted that much of the information identified under Bell's market strategy justification has already been disclosed elsewhere. As such, it cannot qualify for confidential classification. Accordingly, for the reasons set forth above, Bell's request for confidential classification of these materials is denied.

Bell also submitted two documents which it claims consist of the results of demographic studies. Although the underlying materials are a matter of public record, Bell argues that these studies should be granted confidential classification to prevent its competitors from benefitting at Bell's expense.

One of the documents is a study entitled "Toll Planning Analysis: Assumptions and Inputs." It consists of assumptions used to develop toll loss results under various competitive responses to 10XXX and 1+ competition, toll loss percentages, initiation date of 10XXX competition, and estimated stimulation factors in Alabama. (It should be noted that Bell submitted this same information in pages 3206-3608, 3211, and 3215, arguing that it reflected new services or capabilities that vendors plan to use or offer and would not want disclosed.) The other document is a study entitled "Foundation Plan - Round 2 (4/92)." It consists of percentages of customers making no toll calls, and interstate and intrastate IXC tariffed toll rates.

Upon review, Bell's argument regarding the above-referenced studies is not supported by the studies themselves. The studies simply do not consist of demographic data. It is not clear, and Bell has failed to demonstrate, how disclosure of this information would either harm Bell or its ratepayers or benefit its competitors. Moreover, the same or similar information has been disclosed in prior proceedings in which Bell was involved, and is now a matter of public record. Bell's request for confidential classification of these materials is, therefore, denied.

Bell also submitted two pages which it claims reflect Bell's cost to provide certain services. Bell argues that disclosure of this information would allow its competitors to determine the price below which Bell could not offer the service, to the detriment of Bell and its ratepayers. A review of these pages does not reveal any cost data. Both of these pages are entitled "Average Residential Bill". They depict average monthly rates for local residential service. Accordingly, Bell's request for confidential classification of these materials is denied.

Bell submitted one page (F01A01Z03428) which it claims reflects projected units and/or revenues for competitive services and, therefore, demand for certain Southern Bell services. The document depicts the names of businesses and the number of Very Small Aperture Terminals that each business has. According to Bell, disclosure of this information would provide valuable information to competitors, to the detriment of Bell. Upon review, it appears that disclosure of this information could work to the detriment of Bell and, ultimately, its ratepayers. Moreover, it should be noted that this page contains customer-specific information which should not be disclosed without authorization. Accordingly, for the reasons set forth above, Bell's request for confidential classification of Page F01A01Z03428 is granted.

Finally, Bell has requested confidential classification for Pages F01A01Z03801 and 3802. These pages depict InterLATA non-sent paid coin messages by carrier code. Bell argues that this material represents vendor-specific pricing negotiated by Bell, and that disclosure of the data would impair its ability to contract for goods and/or services on a favorable basis. Although a review of the data reveals no prices, it does include carrier-specific information which should not be disclosed without prior authorization. Bell's request for confidential classification of Pages F01A01Z03801 and 3802 is, therefore, granted.

Based upon the foregoing, it is

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that the request for confidential classification of Documents Nos. 13485-92 and 1903-93 filed by BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company is granted, in part, and denied, in part, as set forth in the body of this Order. It is further

ORDER NO. PSC-93-0891-CFO-TL  
DOCKETS NOS. 920260-TL, 910163-TL, 910727-TL, 900960-TL  
PAGE 5

ORDERED that pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, any confidentiality granted to the documents specified herein shall expire eighteen (18) months from the date of issuance of this Order in the absence of a renewed request for confidentiality pursuant to Section 364.183. 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 Susan F. Clark, as Prehearing Officer, this 14th day of June, 1993.

  
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SUSAN F. CLARK, Commissioner and  
Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(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

ORDER NO. PSC-93-0891-CFO-TL  
DOCKETS NOS. 920260-TL, 910163-TL, 910727-TL, 900960-TL  
PAGE 6

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