

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation to deter-) DOCKET NO. 920255-TL
mine whether LEC PATS is compet-) ORDER NO. PSC-93-0980-CFO-TL
itive and whether LEC PATS) ISSUED: June 30, 1993
should be regulated differently)
than it is currently regulated.)
_____)

ORDER ADDRESSING REQUESTS FOR SPECIFIED CONFIDENTIAL
CLASSIFICATION OF DOCUMENTS NUMBERS 8607-92 AND 8792-92

This Order addresses unopposed requests for Specified Confidential Classification by BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company (Southern Bell or the Company). Southern Bell asserts generally that the material for which confidential classification is sought is intended to be and is treated by Southern Bell as private and has not been disclosed except pursuant to agreement to maintain confidentiality.

Under Section 119.01, Florida Statutes, documents submitted to governmental agencies are public records. The only exceptions to this law are specific statutory exemptions and exemptions granted by 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 Southern Bell. According to Rule 25-22.006, Florida Administrative Code, Southern Bell must meet this burden by demonstrating that the materials fall into one of the statutory examples set forth in Section 364.183 or by demonstrating that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

On August 4, 1992, Southern Bell filed its request for Confidential Treatment Regarding Responses to our Staff's Interrogatories (Request). The only part of 8607-92 that is being kept is Response No. 24; this information became Exhibit No. 36 at the hearing. The other Responses are being returned to the Company. Interrogatory Response 47 in Document No. 8792-92 is also being returned to the Company.

Southern Bell requests confidential treatment of information in Interrogatory Response 24, page 1 of 2, lines 1-12, which describes the total commissions paid per month to location providers for 1989, 1990, and 1991, and the average commissions paid per pay telephone for that same period in Florida. Southern Bell argues that Section 364.183 provides that proprietary confidential business information includes "information concerning

DOCUMENT NUMBER-DATE

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NOT RECORDED

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bids or other contractual data, the disclosure of which would impair the efforts of the company to contract for services on favorable terms." If this information were disclosed, Southern Bell argues that it would be detrimental to its ability to compete for locations, would impair its ability to contract for services on favorable terms, and would give its competitors commercially valuable information not otherwise available in the market. This type of information was granted confidential treatment in Order No. 24531, issued May 14, 1991, in Docket No. 860723-TP.

Upon review, we agree that this information should be held confidential. The Commission has found pay telephone service to be effectively competitive as to locations. Disclosure of Southern Bell's data on its commission payments to location providers could put it at a competitive disadvantage. Accordingly, the above-described information in Interrogatory No. 24 (Exhibit 36) shall be exempt from Section 119.07(1).

Based on the foregoing, it is


ORDERED by Chairman J. Terry Deason, as Prehearing Officer, that BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company's August 4, 1992, Request for Specified Confidential Classification of Document No. 8607-92 (Exhibit No. 36) 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 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.

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By ORDER of Chairman J. Terry Deason, as Prehearing Officer,
this 30th day of June, 1993.



J. TERRY DEASON, Chairman and
Prehearing Officer

(S E A L)

AQP/ABG

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

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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.