

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition and complaint) DOCKET NO. 931138-TL
of Florida Independent Directory) ORDER NO. PSC-97-0362-CFO-TL
Publishers to amend Directory) ISSUED: April 1, 1997
Publishers Database Service)
Tariff of BellSouth)
Telecommunications, Inc. d/b/a)
Southern Bell Telephone and)
Telegraph Company.)
_____)

ORDER GRANTING CONFIDENTIAL CLASSIFICATION

On February 4, 1997, BellSouth Telecommunications, Inc., (BellSouth) filed a Request for Confidential Classification and Motion for Permanent Protective Order for Late-filed Exhibit 8 (Request)¹. On February 17, 1997, Florida Independent Directory Publishers (FIDP) filed an Objection to Late-filed Exhibit and Objection to Request for Confidential Treatment (Objections). On February 21, 1997, BellSouth filed its Response to FIDP's Objections. On March 17, 1997, FIDP withdrew its objection to the admission of Late-filed Exhibit 8.

Late-filed Exhibit 8 (Document No. 01320-97) is an analysis that sets out costs and proposed rates based on a demand of 12 customers to provide sort criteria options, an optional new connect residential or business service, and a daily listing update. BellSouth argues that this is information relating to competitive interests, the disclosure of which would impair its competitive business, and that it may be protected pursuant to Section 364.183(3)(e), Florida Statutes. It asserts that the information is intended to be and is treated as private, and that it has not been disclosed.

Section 119.01, Florida Statutes, provides that documents submitted to governmental agencies shall be public records. The only exceptions are specific statutory exemptions. This law derives from the concept that government should operate in the "sunshine." It is this Commission's view that the burden to be met by one requesting confidential classification of documents submitted during a proceeding before it is very high.

¹Although its pleading is styled as both a Request for Confidential Classification and Motion for Permanent Protective Order, BellSouth addresses only the former in argument.

DOCUMENT NO.
03305-97

Rule 25-22.006(4), Florida Administrative Code, provides that the company must demonstrate how the information asserted to be confidential qualifies as one of the statutory exemptions to Section 119.07, Florida Statutes, in Section 364.183(3), Florida Statutes, or how the ratepayers or the company's business operations will be harmed by disclosure. The burden of proof shall be on the company to show that the material in question is bona fide proprietary confidential business information.

Section 364.183(3)(e), Florida Statutes, provides, in pertinent part, that proprietary confidential business information means undisclosed information owned or controlled by the company, intended to be and actually treated as private, the disclosure of which would cause harm to the company's business operations, and includes information relating to competitive interests. I find that the information for which BellSouth seeks classification and a protective order is proprietary confidential business information pursuant to statute. The information identifies the costs and proposed rates for the provision of a specific service in an environment BellSouth has demonstrated to be competitive.

Accordingly, BellSouth's Request is granted. Pursuant to Section 364.183(4), Florida Statutes, Late-filed Exhibit 8 shall be classified as proprietary confidential business information for a period no longer than eighteen months from the date of the granting order, unless the company shows, and the Commission finds, that the protection from disclosure shall be for a longer time. The classified information shall be returned to BellSouth in accordance with Section 364.183(4), Florida Statutes, and Rule 25-22.006(9), Florida Administrative Code.

Based on the foregoing, it is, therefore,

ORDERED by Commissioner Diane K. Kiesling, as Prehearing Officer, that the Request for Confidential Classification of Late-filed Exhibit 8 (Document No. 01320-97) of BellSouth Telecommunications, Inc., is granted. It is further

ORDERED that, in accordance with Section 364.183(4), Florida Statutes, and Rule 25-22.006(9), Florida Administrative Code, the confidentiality granted to the information specified herein shall expire eighteen months from the date of this Order in the absence of a renewed request for confidential classification. It is further

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ORDERED that this Order shall be the sole notice of the expiration of confidentiality.

By ORDER of Commissioner Diane K. Kiesling, as Prehearing Officer, this 1st day of April, 1997.



DIANE K. KIESLING, Commissioner
and Prehearing Officer

(S E A L)

CJP

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 25-22.0376, 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.