

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of BellSouth
Telecommunications, Inc. for
Section 252(b) arbitration of
interconnection agreement with
Intermedia Communications, Inc.

DOCKET NO. 991854-TP
ORDER NO. PSC-00-2050-CFO-TP
ISSUED: June 13, 2000

ORDER GRANTING REVISED REQUEST FOR
CONFIDENTIAL CLASSIFICATION OF DOCUMENTS NOS. 02915-00, 04074-00
AND 04309-00

On December 7, 1999, BellSouth Telecommunications, Inc. (BellSouth) filed a petition for arbitration of an interconnection agreement with Intermedia Communications, Inc. (Intermedia) under Section 252(b) of the Federal Telecommunications Act of 1996 (Act). Accordingly, this matter was set for an administrative hearing.

On March 6, 2000, Intermedia filed the rebuttal testimony and composite exhibit of J. Carl Jackson. Along with Witness Jackson's testimony and exhibit, Intermedia filed a claim of confidentiality pursuant to Rule 25-22.006(5), Florida Administrative Code, for Composite Exhibit No. JCJ-3, Document No. 02915-00. On April 3, 2000, Intermedia served its Supplementary Response to Staff's First Request for Production of Documents, with a claim of confidentiality for Document No. 04074-00. On April 7, 2000, Intermedia filed certain proprietary documents as part of its Response to Staff's First Production of Documents. These documents were originally provided to Commission staff on March 22, 2000, but only in redacted form. Along with the proprietary documents, Intermedia filed a claim of confidentiality for Document No. 04309-00.

The hearing in this docket was held on April 10, 2000. On May 2, 2000, Intermedia filed a Request for Confidential Classification for the above-referenced documents. On May 3, 2000, Intermedia filed a Revised Request for Confidential Classification of those documents. The revised request set forth corrected dates regarding when the documents were filed with the Commission's Division of Records and Reporting.

According to Intermedia, the subject documents describe Intermedia's telecommunications network deployment in Florida. As

DOCUMENT NUMBER-DATE

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such, Intermedia states that the documents are proprietary confidential business information as defined in Section 364.183(3), Florida Statutes. In particular the documents are "trade secrets" as identified in Section 364.183(3)(a), Florida Statutes, and "information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information" as identified in Section 364.183(3)(e), Florida Statutes. Intermedia further states that the documents are owned and controlled by Intermedia. Intermedia states that the documents are intended to be and are treated as private in that disclosure of the information to competitors would cause harm to Intermedia's business operations. Intermedia states that the documents have not been publicly disclosed.

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 utility's burden to demonstrate that the documents fall into one of the statutory exemptions 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.

Based on the definition of proprietary confidential business information in Section 364.183(3), Florida Statutes, it appears

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that the information for which Intermedia seeks confidential classification is information that, if disclosed, could harm Intermedia's business operations. Thus, this information qualifies as proprietary business information under Section 364.183, Florida Statutes. It shall, therefore, be granted confidential treatment.

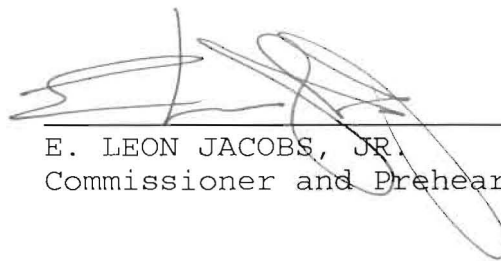
Based on the foregoing, it is therefore

ORDERED by E. Leon Jacobs, Jr., as Prehearing Officer, that the revised request by Intermedia Communications, Inc. for confidential classification of information in Documents Nos. 02915-00, 04074-00 and 04309-00 is 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 material specified herein shall expire eighteen (18) months from the date of the issuance of this Order, in the absence of a renewed request for confidentiality pursuant to Section 364.183, 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 confidentiality time period.

By ORDER of Commissioner E. Leon Jacobs, Jr. as Prehearing Officer, this 13th day of June, 2000.



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