

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by DIECA
Communications, Inc. d/b/a Covad
Communications Company for
arbitration of unresolved issues
in interconnection agreement
with BellSouth
Telecommunications, Inc.

DOCKET NO. 001797-TP
ORDER NO. PSC-01-1347-CFO-TP
ISSUED: June 20, 2001

ORDER GRANTING IN PART, AND DENYING IN PART, BELLSOUTH'S REQUEST
FOR CONFIDENTIAL CLASSIFICATION OF CERTAIN RESPONSES TO COVAD'S
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (DOCUMENT NO. 06410-01)

Pursuant to Section 252 of the Telecommunications Act of 1996 (Act), DIECA Communications, Inc. d/b/a Covad Communications Company (Covad) petitioned for arbitration with BellSouth Telecommunications, Inc. (BellSouth) on December 15, 2000. On January 9, 2001, BellSouth filed its Response to Covad's petition for arbitration. This matter is currently set for an administrative hearing on June 27-29, 2001.

Pursuant to Section 364.183, Florida Statutes, BellSouth filed a Request for Confidential Classification of certain information provided in response to Covad's First Request for Production of Documents Nos. 7, 18, 22, 32 and 33, which is contained in Document No. 06410-01. This request for confidential classification was filed on May 21, 2001. BellSouth asserts that certain information contained in its response to Covad's First Request for Production of Documents contains vendor-specific information, cost information, confidential business information of BellSouth, and ALEC-specific data.

INFORMATION FOR WHICH CONFIDENTIAL CLASSIFICATION IS SOUGHT

BellSouth asserts several reasons for seeking to have the information in the Table below to be classified as confidential. Specifically, BellSouth states that:

- 1) The information contains ALEC proprietary information that BellSouth is required to treat as proprietary and confidential business information.
- 2) The information requested contains practices and procedures utilized by BellSouth for provisioning line sharing- BellSouth

DOCUMENT NUMBER-DATE

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Owned Splitter. This information, if released, would allow competitors to have free access to certain intellectual property which was developed at significant expense to BellSouth. Further, the disclosure of the information would impair BellSouth's ability to compete.

3) This information reflects vendor specific pricing negotiated by BellSouth. Public disclosure of this information would impair BellSouth's ability to contract for goods and services on favorable terms.

4) This information reflects BellSouth's cost to provide certain services. The public disclosure of the information would provide BellSouth's competitors with an advantage in that they would know the price or rate below which BellSouth could not provide the service. Further, it would be inequitable and unfair for BellSouth's competitors to have access to BellSouth's cost information.

BellSouth requests that the information contained in the following table be granted confidential classification:

BELLSOUTH'S RESPONSES TO COVAD'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

<u>ITEM</u>	<u>PAGE NO.</u>	<u>LINE NO./COLUMN</u>	<u>REASON(S)</u> (Identified above)
POD. No. 7	1	FL Resid Dispatch Col	1
	1	Res Non- Dispatch Col	1
	1	UNE Design Col	1
	1	UNE Des Non- Dis Col	1
	1	UNE Non-Des Disp Col	1
	1	Total Col	1

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<u>ITEM</u>	<u>PAGE NO.</u>	<u>LINE NO./COLUMN</u>	<u>REASON(S)</u> (Identified above)
POD No. 7	2	FL Res non-Dis Col	1
	2	UNE Des Disp Col	1
	2	UNE Des Non-Disp Col	1
	2	Total Col	1
	3	UNE Des Disp Col	1
	3	UNE Des Non-Disp Col	1
	3	Total Col	1
POD No. 18	Entire Document	Entire Document	2
POD No. 22	1	Line Nos. 1, 4	1
	1	Total FLA Col	1
	1	NTF/TOK Col	1
	1	% Col	1
	2	Line Nos. 2, 3	1
	2	Res Disp Col	1
	2	Res Non-Disp Col	1
	2	UNE Des Dis Col	1
	2	UNE Des Non-Disp Col	1
	2	UNE Non-Des Disp Col	1

<u>ITEM</u>	<u>PAGE NO.</u>	<u>LINE NO./COLUMN</u>	<u>REASON(S)</u> (Identified above)
	2	Total Col	1
	3	Line Nos. 2, 3	1
POD No. 22	3	Res Non-Disp Col	1
	3	UNE Design Col	1
	3	UNE Des Non-Disp Col	1
	3	Total Col	1
	4	Line Nos. 2,4	1
	4	UNE Des Disp Col	1
	4	UNE Des Non-Disp Col	1
	4	Total Col	1
POD No. 32	2	Line Nos. 1-8	3 and 4
	3	First Col	3 and 4
	3	Ea Add Col	3 and 4
	3	First Col	3 and 4
	3	EA Add Col	3 and 4
	3	Each Col	3 and 4
	3	Line No. 1	3 and 4
	4	Engineering First, Ea. Add, Total Cols	3 and 4

<u>ITEM</u>	<u>PAGE NO.</u>	<u>LINE NO./COLUMN</u>	<u>REASON(S)</u> (Identified above)
	4	Installation First, Ea. Add, total Cols	3 and 4
	4	Material Each, Total Col	3 and 4
	4	Total Eng Line	3 and 4
POD No. 32	4	Total Inst Line	3 and 4
	4	Total Mat Line	3 and 4
	4	Line No. 2	3 and 4
	5	Line Nos. 1-3	3 and 4
	6	Line Nos. 1-3	3 and 4
POD No. 33	3	Cost Col	3 and 4
	4	Bracket No. 1	3 and 4
	5	Entire Page	3 and 4
	6	Inputs Col	3 and 4
	7	Cols C, F, G, L and M	3 and 4
	8	Lines 217-219, 222-226, 228-231 and 234-236	3 and 4
	9	Unit Price	3 and 4
	10	1 st Col	3 and 4
	11	Cols F and G	3 and 4
	12	Cost Col	3 and 4

<u>ITEM</u>	<u>PAGE NO.</u>	<u>LINE NO./COLUMN</u>	<u>REASON(S)</u> (Identified above)
	13	use DS1 xcibb Col	3 and 4
	13	Bracket No. 1	3 and 4
	14	Unit Price Col	3 and 4
	14	EQFT Total Col	3 and 4
	14	Total Inst Col	3 and 4
	14	Total Inst Labor Col	3 and 4
	15	Unit Price Col	3 and 4
POD No. 33	15	EQFT Total Col	3 and 4
	15	Total Inst Col	3 and 4
	15	Total Inst Labor Col	3 and 4
	16	Unit Price Col	3 and 4
	16	EQFT Total Col	3 and 4
	16	Total Inst Col	3 and 4
	16	Total Inst Labor Col	3 and 4
	17	Entire page	3 and 4
	18	Entire page	3 and 4
	20	Sub Price Col	3 and 4
	20	Marconi Total Price Col	3 and 4
	20	BellSouth Total Price Col	3 and 4
	27	Minor Matl Col	3 and 4

<u>ITEM</u>	<u>PAGE NO.</u>	<u>LINE NO./COLUMN</u>	<u>REASON(S)</u> (Identified above)
	27	Avg Col	3 and 4
	27	Total Col	3 and 4
	27	Sq Ft Col	3 and 4
	27	Total Col	3 and 4
	27	Arrangement Col	3 and 4
	31	Cost Col	3 and 4
	32	FRC 460C Bracket	3 and 4
	33	Bracket 1	3 and 4
	33	Cost Col	3 and 4
POD NO. 33	34	Col A	3 and 4
	35	Computation Col	3 and 4
	35	Cost Col	3 and 4
	36	Percent of Job Col	3 and 4
	36	Subtotal Cost Col	3 and 4
	36	Cost per Sq Ft Col	3 and 4
	36	Unit Cost Col	3 and 4
	36	Subtotal Cost Col	3 and 4
	36	Total Cost Col	3 and 4
	37	Unit Cost Col	3 and 4
	37	Total Col	3 and 4

<u>ITEM</u>	<u>PAGE NO.</u>	<u>LINE NO./COLUMN</u>	<u>REASON(S)</u> (Identified above)
	38	Unit Cost Col	3 and 4
	38	Total Col	3 and 4
	39	Cols D, E, F and G	3 and 4
	39	Line Nos. 8, 15, 16, 24, 39, 46 and 61	3 and 4
	40	Cols D, E, F and G	3 and 4
	40	Line Nos. 76 and 110	3 and 4
	41	Cols F and G	3 and 4
	42	Line Nos. 215-217, 219-223 and 227-228	3 and 4

CONCLUSION

Pursuant to Section 119.01, Florida Statutes, it is presumed 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 Company's burden to demonstrate that the documents fall into one of the statutory examples 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.

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

that most of the information for which BellSouth seeks confidential classification is information that if disclosed, would cause harm to BellSouth or its ratepayers by impairing BellSouth's ability to compete. Further, BellSouth states that the information contains ALEC proprietary information that BellSouth is required to treat as proprietary and confidential business information. Disclosure of this ALEC proprietary information would be in violation of Section 364.24, Florida Statutes.

However, BellSouth's request for confidential classification of its Response to Covad's Request for Production of Document No. 18 (POD No. 18), which is BellSouth's Central Office UNE Line Sharing Job Aid- Provisioning of Line Sharing and Maintenance Line Sharing, is not of the nature that it would be considered confidential under Section 364.183, Florida Statutes. Although BellSouth asserts that the information contained in its Response to POD No. 18 would allow competitors to have free access to certain intellectual property, BellSouth has not demonstrated that the information contains information that would be proprietary under Section 364.183, Florida Statutes. Thus, this information in POD No. 18 does not qualify as proprietary business information under Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. Therefore, BellSouth's request for POD No. 18 to be treated as confidential information is denied. Accordingly, BellSouth's request for confidential treatment is hereby granted in part, and denied in part, as discussed in the body of this Order.

Based on the foregoing, it is

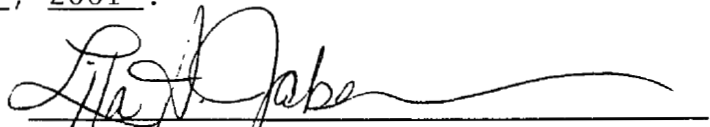
ORDERED by Commissioner Lila A. Jaber, as Prehearing Officer, that BellSouth Telecommunications, Inc.'s May 17, 2001, Request for Confidential Treatment of Document No. 06410-01 is hereby granted in part, and denied in part, as set forth in the body of this Order.

ORDERED that pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, any 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

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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 Lila A. Jaber, as Prehearing Officer, this 20th day of June, 2001.


LILA A. JABER
Commissioner and Prehearing Officer

(S E A L)

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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.

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.