

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Citizens of
State of Florida for
investigation of Talk America
Inc. and its affiliate, The
Other Phone Company, Inc. d/b/a
Access One Communications, for
willful violation of Rule 25-
4.118, F.A.C.

DOCKET NO. 010409-TP
ORDER NO. PSC-01-2314-PCO-TP
ISSUED: November 26, 2001

ORDER GRANTING REQUESTS FOR TEMPORARY PROTECTIVE ORDER

The Commission opened this docket to investigate whether Talk America, Inc., f/k/a Talk.com Holding Corp. d/b/a Network Services d/b/a The Phone Company and its affiliate, The Other Phone Company, Inc. d/b/a Access One Communications (Talk America collectively) had willfully violated Rule 25-4.118, F.A.C.

On June 5, 2001, Talk America filed a Request for Temporary Protective Order covering documents that were requested in the Citizens' Second Set of Requests for Production of Documents. Talk America alleged that the documents, a copy of correspondence and attachments filed with the Commission on June 4, 2001, contained information considered work-product and proprietary and confidential business information. Such information is included as proprietary confidential business information pursuant to Section 364.183(3), Florida Statutes.

As the Commission has recognized:

The purpose of a temporary protective order issued pursuant to Rule 25-22.006(5)(c)¹, Florida Administrative Code, is to facilitate the examination of potentially confidential information by temporarily exempting the information from the disclosure provision of Florida's Public Records Act, Section 119.07(1), Florida Statutes. Under the rule, if information subject to a temporary

¹ Paragraph (5)(c) was renumbered to paragraph (6)(c) when the rule was amended on April 21, 1996.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

protective order is to be used in a proceeding, then the utility must file a specific request for confidential treatment. Alternatively, if the material is not to be used in a proceeding, then the material shall be returned to the utility.

In re: Comprehensive review of the requirements and rate stabilization plan of Southern Bell Telephone and Telegraph Company, Order No. PSC-96-0975-PCO-TL, 96 F.P.S.C. 7:639 (1996).

Subsequent to filing its initial Request for Temporary Protective Order on June 5, 2001, Talk America filed additional such requests covering additional documents as follows:

Filing Date of Request for
Temporary Protective Order

Documents

July 23, 2001	Citizens' First Request for Production of Documents (POD) as modified by the parties.
July 25, 2001	Additional documents responsive to Citizens' First POD Requests.
July 27, 2001	Additional documents responsive to Citizens' First POD Requests.
July 30, 2001	Additional documents responsive to Citizens' First POD Requests.
September 24, 2001	Citizens' Third POD Requests, Items 5-13; Answers to Citizens' First Set of Interrogatories.
October 5, 2001	Supplemental response to Item 1, Citizens' First Set of Interrogatories.

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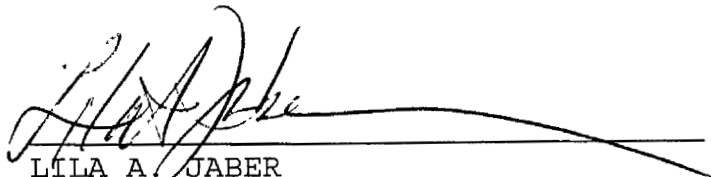
Citizens' Fourth POD Requests
and Answers to Citizens' Second
Set of Interrogatories.

Talk America's above-listed Requests for Temporary Protective Order are granted. The confidential documents delivered to Office of Public Counsel in response to Citizens' First, Second, Third and Fourth POD Requests and First and Second Sets of Interrogatories shall be exempt from Section 119.07(1), Florida Statutes, pending their return to Talk America if they are not used, or a ruling on Talk America's Specific Request for Confidential Classification if they are used during the hearing. While the above information is protected by this Order, only Commission staff, Talk America, and OPC shall have access to the information.

It is therefore,

ORDERED by Commissioner Lila A. Jaber, as Prehearing Officer, that the Requests for Temporary Protective Order of Talk America, Inc. described herein are hereby granted as discussed above.

By ORDER of Commissioner Lila A. Jaber, as Prehearing Officer, this 26th day of November, 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.

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 the Commission Clerk and Administrative Services, 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.