

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Consideration of
BellSouth Telecommunications,
Inc.'s entry into interLATA
services pursuant to Section 271
of the Federal Telecommuni-
cations Act of 1996.

DOCKET NO. 960786-A-TL
ORDER NO. PSC-01-2485-CFO-TL
ISSUED: December 20, 2001

ORDER GRANTING BELLSOUTH'S REQUESTS FOR
CONFIDENTIAL CLASSIFICATION OF DOCUMENT NOS. 12972-01 (X-REF
DOCUMENT NO. 11830-01), 13265-01 (X-REF DOCUMENT
NO. 12256-01), 13725-01 (X-REF DOCUMENT NOS. 12992-01,
12876-01) AND 14189-01 (X-REF DOCUMENT NO. 13676-01)

Pursuant to Section 271(d)(3) of the Telecommunications Act of 1996 (the Act), the Federal Communications Commission (FCC) has 90 days to issue a written determination approving or denying a Bell Operating Company's (BOC) application for interLATA authority. Further, the FCC is directed to consult with the appropriate State Commission before making a determination regarding the BOC's entry into the interLATA market. Specifically, the Act requires the FCC to consult with the State Commission in order to verify the BOC's compliance with the requirements of Section 271(c) of the Act. On June 28, 1996, we opened this docket to begin to fulfill our consultative role. The matter was set for hearing.

After hearing, having considered the record, by Order No. PSC-97-1459-FOF-TL, issued November 19, 1997, we rendered findings on whether BellSouth had met the requirements of Section 271(c). Specifically, we found that BellSouth was not eligible to proceed under Track B at that time, because it had received qualifying requests for interconnection that if implemented would meet the requirements of Section 271(c)(1)(A), also known as Track A. Our evaluation of the record on whether BellSouth met the requirements of Section 271(c)(1)(A) indicated that while there was a competitive alternative in the business market, there was not sufficient evidence to determine whether there was a competitive alternative in the residential market. Thus, based on the evidence in the record, we found that BellSouth had not met all of the requirements of Section 271(c)(1)(A).

DOCUMENT # 960786-A-TL

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FPCD COMMUNICATIONS

On March 6, 2001, BellSouth filed a Motion to Request Scheduling Conference. On March 28, 2001, a status conference was conducted with all of the parties. Thereafter, by Order No. PSC-01-0832-PCO-TL, issued March 30, 2001, the schedule for this proceeding was established. A hearing was conducted in this matter on October 11-12 and 17-18, 2001.

BellSouth has filed several Requests for Confidential Classification pursuant to Rule 25-22.006, Florida Administrative Code, listed herein:

1. On October 11, 2001, BellSouth filed a Request for Confidential Classification of Document No. 12972-01. This request seeks confidential classification of information in Exhibit No. 1 to Keith Milner's Late-Filed Deposition.
2. On October 18, 2001, BellSouth filed a Request for Confidential Classification of Document No. 13265-01. This request seeks confidential classification of BellSouth's Response to Staff's 4th Set of Interrogatories, Item No. 63 (Attachment 1).
3. On October 30, 2001, BellSouth filed a Request for Confidential Classification of Document No. 13725-01. This request seeks confidential classification of BellSouth's Supplemental Response to Florida Digital Network's First Request for Production of Documents, Item No. 1.
4. On November 7, 2001, BellSouth filed a Request for Confidential Classification of Document No. 14189-01. This request seeks Confidential Classification of BellSouth's Late-Filed Hearing Exhibit No. 40.

Attachment A contains an explanation of the proprietary information along with a list that identifies the location of the information designated by BellSouth as confidential. Specifically, BellSouth asserts that the information contained in these exhibits includes vendor-specific pricing information, confidential business information and customer proprietary information. Further, BellSouth contends that the public disclosure of this information would provide competitors with an unfair advantage in future negotiations.

ORDER NO. PSC-01-2485-CFO-TL
DOCKET NO. 960786-A-TL
PAGE 3

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 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.

Upon review, it appears that the information for which BellSouth seeks confidential classification in Attachment A is information that if disclosed, would cause harm to BellSouth or its ratepayers by impairing BellSouth's ability to compete. Therefore, I find that BellSouth's requests comply with Rule 25-22.006, Florida Administrative Code, and Section 364.183, Florida Statutes, and are hereby granted.

Based on the foregoing, it is


ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that BellSouth Telecommunications, Inc.'s, Requests for Confidential Classification of Document Nos. 12972-01 (X-ref Document No. 11830-01), 13265-01 (X-ref Document No. 12256-01), 13725-01 (X-ref Document Nos. 12992-01, 12876-01) and 14189-01 (X-ref Document No. 13676-01), as set forth in Attachment A are hereby granted and incorporated by reference into this Order. It is further

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

ORDER NO. PSC-01-2485-CFO-TL
DOCKET NO. 960786-A-TL
PAGE 4

By ORDER of Commissioner J. Terry Deason as Prehearing Officer, this 20th day of December, 2001.



J. TERRY DEASON
Commissioner and Prehearing Officer

(S E A L)

AJT

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,

ORDER NO. PSC-01-2485-CFO-TL

DOCKET NO. 960786-A-TL

PAGE 5

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.

ORDER NO. PSC-01-2485-CFO-TL
DOCKET NO. 960786-A-TL
PAGE 6

ATTACHMENT A

**Bell South Telecommunications, Inc.
FPSC Docket No. 960786-A-TL
Request for Confidential Classification
Page 1 of 2
10/11/01**

**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF THE LATE FILED
DEPOSITION EXHIBIT NO. 1 OF KEITH MILNER, FILED SEPTEMBER 20,2001 IN
FLORIDA DOCKET NO. 960786-A-TL**

Explanation of Proprietary Information

1. This information contains ALEC specific information that BellSouth is required to treat as proprietary and confidential business information. The Commission has always zealously protected ALEC specific information in order to prevent a competitor of the ALEC from obtaining an unfair advantage. This information is clearly confidential and proprietary under Florida Statutes.

ORDER NO. PSC-01-2485-CFO-TL
DOCKET NO. 960786-A-TL
PAGE 7

ATTACHMENT A

**Bell South Telecommunications, Inc.
FPSC Docket No. 960786-A-TL
Request for Confidential Classification
Page 1 of 2
10/11/01**

**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF THE LATE FILED
DEPOSITION EXHIBIT NO. 1 OF KEITH MILNER, FILED SEPTEMBER 20,2001 IN
FLORIDA DOCKET NO. 960786-A-TL**

LATE FILED DEPOSITION EXHIBIT NO. 1

<u>Page No.</u>	<u>Location</u>	<u>Reason</u>
1	Response: Lines 2, 10-16	1
2	Lines 1-3	1

ATTACHMENT A

**BellSouth Telecommunications, Inc.
FPSC Docket No. 960786-TL
Request for Confidential Classification
Page 1 of 2
10/18/01**

**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S RESPONSE
TO STAFF'S 4TH SET OF INTERROGATORIES, ITEM NO. 63 (ATTACHMENT 1),
FILED SEPTEMBER 27,2001 IN FLORIDA DOCKET NO. 960786-TL**

Explanation of Proprietary Information

1. The information reflects vendor specific pricing negotiated by BellSouth. Public disclosure of this information would impair BellSouth's ability to contract for goods and/or services on favorable terms. Pursuant to Section 364.183, Florida Statutes such information is classified as proprietary, confidential business information which is exempt from the Open Records Act.

ORDER NO. PSC-01-2485-CFO-TL
DOCKET NO. 960786-A-TL
PAGE 9

ATTACHMENT A

**BellSouth Telecommunications, Inc.
FPSC Docket No. 960786-TL
Request for Confidential Classification
Page 1 of 2
10/18/01**

**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S RESPONSE
TO STAFF'S 4TH SET OF INTERROGATORIES, ITEM NO. 63 (ATTACHMENT 1),
FILED SEPTEMBER 27,2001 IN FLORIDA DOCKET NO. 960786-TL**

INTERROGATORY NO. 63 - ATTACHMENT 1

<u>Page No.</u>	<u>Location</u>	<u>Reason</u>
1	Amount Column, Line Number 11	1
2	Total Shared Cost Column, Last Line	1

ATTACHMENT A

**BellSouth Telecommunications, Inc.
FPSC Docket No. 960786-A-TL
Request for Confidential Classification
Page 1 of 2
10/30/01**

REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S SUPPLEMENTAL RESPONSE TO FLORIDA DIGITAL NETWORK'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS, ITEM NO. 1 FILED OCTOBER 9, 2001 IN FLORIDA DOCKET NO. 960786-A-TL

Explanation of Proprietary Information

- 1. This information reflects BellSouth's market strategy relating to its competitive marketing position. Specifically this information discusses, describes and evaluates market size, trends, results and weekly tracking, as well as financial impact and strategies. This information, if released, would allow BellSouth's competitors to have free access to certain intellectual property which was developed at significant expense to BellSouth. BellSouth's competitors can use this information to develop their own strategies without the burden and expense of developing this property for themselves. In addition, this document contains customer specific information which the Commission has always zealously protected. Thus, the disclosure of this information to BellSouth's competitors would impair BellSouth's ability to compete and the information is entitled to confidential classification pursuant to Section 364.183, Florida Statutes. In addition, this information, is valuable because it is used by BellSouth in conducting its business. Therefore, this information should be classified as proprietary, confidential business information exempt from the Open Records Act.**

ORDER NO. PSC-01-2485-CFO-TL
DOCKET NO. 960786-A-TL
PAGE 11

ATTACHMENT A

BellSouth Telecommunications, Inc.
FPSC Docket No. 960786-A-TL
Request for Confidential Classification
Page 2 of 2
10/30/01

REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S
SUPPLEMENTAL RESPONSE TO FLORIDA DIGITAL NETWORK'S FIRST
REQUEST FOR PRODUCTION OF DOCUMENTS, ITEM NO. 1 FILED
OCTOBER 9, 2001 IN FLORIDA DOCKET NO. 960786-A-TL

POD NO. 1

<u>Location</u>	<u>Reason</u>
Entire Response	1

ATTACHMENT A

**BellSouth Telecommunications, Inc.
FPSC Docket No. 960786A-TL
Request for Confidential Classification
Page 1 of 1
11/7/01**

**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF LATE-FILED HEARING
EXHIBIT NO. 40, CLEC LINES IN BELL SOUTH'S SERVICE AREA, AS FILED ON
OCTOBER 29, 2001 IN FLORIDA DOCKET NO. 960786A-TL.**

Explanation of Proprietary Information

1. The information is proprietary to BellSouth and includes Alternate Local Exchange Company's (ALEC's) specific information. The Commission has always zealously protected customer specific information in order to protect the customer's privacy and prevent a competitor of the customer from obtaining an unfair advantage. This information is clearly confidential and proprietary under Florida Statutes, Section 364.183 and Rule 25-22.006, Florida Administrative Code. Pursuant to Section 364.183, Florida Statutes, such information is classified as proprietary, confidential business information which is exempt from Section 19.07(1) and Section 24(a), Art. 1 of the State Constitution. In addition, this information is protected by Order No. PSC-01-1033-PCO-TL issued on April 27, 2001 by the Prehearing Officer.

LATE-FILED HEARING EXHIBIT 40

<u>PAGE NO.</u>	<u>Column</u>	<u>LINES</u>	<u>REASON</u>
1	B	1-55	1
	C	1-55	1
	D	1-55	1
	E	1-55	1
	F	1-55	1
	G	1-55	1
	2	B	1-71
C		1-71	1
D		1-71	1
E		1-71	1
F		1-71	1
G		1-71	1