

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition of US LEC of Florida, Inc., Time Warner Telecom of Florida, L.P., and ITC^DeltaCom Communications objecting to and requesting suspension of proposed CCS7 Access Arrangement tariff filed by BellSouth Telecommunications, Inc.

DOCKET NO. 020129-TP
ORDER NO. PSC-02-1181-CFO-TP
ISSUED: August 29, 2002

ORDER GRANTING REQUESTS FOR CONFIDENTIAL CLASSIFICATION
OF DOCUMENTS NOS. 07600-02 (x-ref. 06821-02) AND 08602-02 (x-ref.
07821-02)

On January 18, 2002, BellSouth Telecommunications, Inc. (BST) filed a tariff with this Commission introducing the CCS7 Access Arrangement. This tariff filing also restructures the offering for Commercial Mobile Radio Service (CMRS) providers, and directs them to the equivalent CCS7 Access Arrangement available in the Access Services Tariff. Further, as part of this filing, local switching rates have been reduced to reflect the introduction of charges for intrastate CCS7 usage. The tariff filing went into effect on February 17, 2002.

On February 15, 2002, US LEC of Florida, Inc., Time Warner Telecom of Florida, L.P., and ITC^DeltaCom Communications (Petitioners) filed a Joint Petition objecting to and requesting suspension of the CCS7 Access Arrangement Tariff filed by BST, and requesting that this Commission schedule a formal administrative hearing to address the issues raised in its Petition. On March 22, 2002, BST filed its response to the Petition. This matter was set for an administrative hearing by this Commission by Order No. PSC-02-0739-PCO-TP, issued May 31, 2002.

On July 22, 2002, BellSouth filed a request for confidential classification. In its request, BellSouth seeks confidential classification of the information contained in Exhibit JAR-1 to the Direct Testimony of John A. Ruscilli (Document No. 07600-02 (x-ref 06821-02)). Attachment A, attached hereto and incorporated herein, contains a detailed justification of the confidentiality of the

DOCUMENT NUMBER-DATE

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FPSC-0611 POSITION CLERK

information at issue. I understand that BellSouth treats this information as confidential and it has not otherwise been released.

On August 15, 2002, BellSouth filed a request seeking confidential classification of certain information produced in response to ITC^DeltaCom Communication's First Set of Interrogatories (Attachment to No. 9) and First Request for Production of Documents Item (Nos. 4 and 5) (Document No. 08602-02 (x-ref 07821-02)). Attachment B, attached hereto and incorporated herein, contains a detailed justification of the confidentiality of the information at issue. I understand that BellSouth treats this information as confidential and it has not otherwise been released.

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.

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.

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Based on the definition of proprietary confidential business information in Section 364.183(3), Florida Statutes, it appears that the material described herein is proprietary business information in accordance with Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. Disclosure of this information would give its competitors an artificial competitive advantage, allowing them to successfully compete against BellSouth without the usual market trial and error. As such, BellSouth's Requests for Confidential Classification of Documents Nos. 07600-02 (x-ref. 6821-02) and 08602-02 (x-ref. 07821-02) are hereby granted.

Based on the foregoing, it is

ORDERED by Braulio L. Baez, as Prehearing Officer, that BellSouth Telecommunications, Inc.'s Requests for Confidential Classification of Documents Nos. 07600-02 (x-ref. 06821-02) and 08602-02 (x-ref. 07821-02), as set forth in Attachments A and B 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, 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.

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By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 29th day of August, 2002.



BR BAEZ

BRAULIO L. BAEZ
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, 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

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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.

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ATTACHMENT A

BellSouth Telecommunications, Inc.
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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF THE DIRECT TESTIMONY OF
JOHN A. RUSCILLI, EXHIBIT JAR-1 AS FILED ON JULY 1, 2002 IN FLORIDA
PUBLIC SERVICE COMMISSION DOCKET 020129-TP**

Explanation of Proprietary Information

A. The identified information consists of a price out package which demonstrates revenue neutrality of BellSouth's CCS7 tariff which contains competitive business information. Therefore, this information should be classified as proprietary, confidential business information pursuant to Section 364.183(3)(d) Florida Statutes and is exempt from the Open Records Act.

PAGE NO.

BASIS FOR REQUEST

Entire Document

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Attachment B

BellSouth Telecommunications, Inc.
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**REQUEST FOR CONFIDENTIAL CLASSIFICATION FOR BELL SOUTH'S RESPONSES
TO ITC^DELTACOM'S FIRST SET OF INTERROGATORIES AND FIRST REQUEST
FOR PRODUCTION OF DOCUMENTS**

Explanation of Proprietary Information

- A. This information reflects projected demand and the revenues based on that projected demand for certain BellSouth services. If this information were given to a competitor, he would know how much growth BellSouth expects in a particular service, thus providing him valuable market planning information. This information is valuable, and is used by BellSouth in conducting its business and BellSouth strives to keep it secret. Therefore, such information is a trade secret that should be classified as proprietary, confidential business information pursuant to Section 364.183, Florida Statutes. In addition, this information represents research performed by BellSouth which should not be given free of charge to entities which compete with BellSouth. BellSouth's competitors should not be allowed to benefit from research performed at BellSouth's expense.

- B. This information reflects customer specific information. Specifically, this information reflects CCS7 usage billing for ITC^DeltaCom. The Commission has always zealously protected customer specific information in order to protect the customer's privacy and to prevent a competitor of the customer from obtaining an unfair advantage. This information is also

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expressly deemed to be confidential pursuant to Section 364.183(3)(e), Florida Statutes.

- C. The identified information consists of a price out package that demonstrates revenue neutrality of BellSouth's CCS7 tariff, which contains competitive business information. Therefore, this information should be classified as proprietary, confidential business information pursuant to Section 364.183(3)(d) Florida Statutes and is exempt from the Open Records Act.

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Index of Proprietary Information

Attachment to Interrogatory Item No. 9

<u>LOCATION</u>	<u>BASIS FOR REQUEST</u>
All numerical data in columns B and C.	B

Production of Documents Item No. 4

<u>PAGE NO.</u>	<u>LOCATION/COLUMNS</u>	<u>BASIS FOR REQUEST</u>
2	All numbers	A
3	Columns: CC64, 66, 110, 119 141, 720 & total	A
4-7	All numbers	A
8,9	Number	A
10-16,18,20, 22,23,27,32,37, 38,39	All numbers	A
40	All numbers except Info from FCC Filing in QTR 4,2000	A
41-46,48,49 50-64,67,68, 71-82	All numbers	A
83	All numbers for PCI Update and Current Rates	A
84	All numbers for ATS Target in other Exog Total	A
87-90	All numbers	A
91	Columns A-H	A
94-99,102-105	All numbers	A
106	All numbers and nos. for VoiceGrade, Metallic, Telegraph-Special	A
107	All numbers	A

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108	All numbers for Audio & Video Service Category	A
109,117	All numbers and nos. for zones 1-3	A
111-113,115	All numbers	A

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114	All numbers and nos. for VoiceGrade, Metallic, Telegraph-Special	A
116	All numbers for Audio & Video Service Category	A
119-125	All numbers	A
126,134	Number for Total Special Access Basket	A
127-133,135, 136	All numbers Columns: Current Rates, Proposed Rates, Index Results and Total (a)	A
137,145	Columns: Current Rates, Proposed Rates and Index Results	A
138,146	Column: Total (a)	A
139,142,143, 147,148,150	All numbers	A
144	Columns: Current Rates, Proposed Rates, Index Results Total (a)	A
151	Columns: LEC, FCC, Delta, Flag	A
152-156	All numbers	A

Production of Documents Item No. 5

<u>LOCATION</u>	<u>BASIS FOR REQUEST</u>
Entire document	C