

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Florida
Competitive Carriers Association
against BellSouth
Telecommunications, Inc.
regarding BellSouth's practice
of refusing to provide
FastAccess Internet Service to
customers who receive voice
service from a competitive voice
provider, and request for
expedited relief.

DOCKET NO. 020507-TL
ORDER NO. PSC-03-1083-CFO-TL
ISSUED: October 1, 2003

ORDER GRANTING AT&T'S REQUEST FOR SPECIFIED CONFIDENTIAL
CLASSIFICATION FOR DOCUMENT NO. 08368-03
(X-REF. 07682-03)

BY THE COMMISSION:

On June 12, 2002, the Florida Competitive Carriers Association (FCCA) filed a Complaint against BellSouth Telecommunications, Inc. (BellSouth) and a Request for Expedited Relief seeking relief from BellSouth's practice of refusing to provide its FastAccess service to customers who receive voice service from an Alternative Local Exchange Carrier (ALEC). By Order No. PSC-02-0935-PCO-TL, issued July 12, 2002, the request for expedited relief was denied. On July 21 and 22, 2003, an administrative hearing was held in this matter.

On September 5, 2003, AT&T Communications of the Southern States, LLC (AT&T) filed its Request for Specified Confidential Classification for information contained in BellSouth's Post Hearing Brief, Document No. 08368-03(x-ref. 07682-03). Attachment A, attached hereto and incorporated herein, contains a detailed justification of the confidentiality of the information at issue. AT&T states that a portion of the confidential, proprietary business contained in BellSouth's Post Hearing Brief contains is specifically related to AT&T's business operations. AT&T contends that it considers this information to be confidential, proprietary business information. AT&T asserts that the confidential

DOCUMENT NUMBER-DATE

09456 OCT-1 2

FPSC-COMMISSION CLERK

information is related to the number of lines AT&T has and their historical growth. AT&T contends the confidential, proprietary business information was gathered from AT&T's supplemental confidential response to BellSouth Interrogatory No. 4, which was entered into the record at the hearing as Exhibit No. 2, and for which AT&T request for specified confidential classification was granted on August 7, 2003, by Order No. PSC-03-1003-CFO-TL.¹ AT&T contends that disclosure of the information would harm AT&T competitive business interests. AT&T asserts that the information has not been made public and is governed by a Protective Agreement between the parties. AT&T asserts that it treats the information for which confidential classification is sought as private and confidential.

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

¹AT&T notes that the information in BellSouth's Post Hearing Brief and AT&T's supplemental confidential response to BellSouth Interrogatory No. 4 appear different because BellSouth has totaled the confidential information in its brief, but nevertheless remains confidential.

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 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 AT&T without the usual market trial and error. As such, AT&T's Request for Specified Confidential Classification of Document No. 08368-03 (x-ref. 07682-03) is hereby granted.

Based on the foregoing, it is


ORDERED by Commissioner Braulio L. Baez, as Prehearing Officer, that AT&T Communications of the Southern States, LLC's Request for Specified Confidential Classification of Document No. 08368-03 (x-ref. 07682-03), as set forth in Attachment A, is 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.

ORDER NO. PSC-03-1083-CFO-TL
DOCKET NO. 020507-TL
PAGE 4

By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 1st day of October, 2003.

 for Commissioner Braulio BAEZ

BRAULIO L. BAEZ
Commissioner and Prehearing Officer

(S E A L)

PAC

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; or (2) 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

ORDER NO. PSC-03-1083-CFO-TL
DOCKET NO. 020507-TL
PAGE 5

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.

ATTACHMENT A

**Request For Confidential Classification of
Confidential, Proprietary Business Information in BellSouth's Post-Hearing Brief
Docket No. 020507-TP**

Explanation of Proprietary Information

1. The information provided belonging to AT&T provided in BellSouth's Post-Hearing Brief contains confidential, proprietary business information regarding the number of lines AT&T has and how such lines are provisioned. This information is related to AT&T's ongoing business affairs and can be used by AT&T's competitors to harm its competitive interests. Section 364.183, Florida Statutes, allows for an exemption from the disclosure requirements of section 119.07, Florida Statutes, when disclosure would "impair the competitive business of the provider of the information." Therefore, the information should be shielded from disclosure pursuant to section 119.07, Florida Statutes and section 24(a), Art. 1 of the State Constitution.

<u>Page No.</u>	<u>Line</u>	<u>Reason</u>
3	21-22	1