

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Verizon Florida Inc. to reform intrastate network access and basic local telecommunications rates in accordance with Section 364.164, Florida Statutes.

DOCKET NO. 030867-TL

In re: Petition by Sprint-Florida, Incorporated to reduce intrastate switched network access rates to interstate parity in revenue-neutral manner pursuant to Section 364.164(1), Florida Statutes.

DOCKET NO. 030868-TL

In re: Petition for implementation of Section 364.164, Florida Statutes, by rebalancing rates in a revenue-neutral manner through decreases in intrastate switched access charges with offsetting rate adjustments for basic services, by BellSouth Telecommunications, Inc.

DOCKET NO. 030869-TL

In re: Flow-through of LEC switched access reductions by IXC's, pursuant to Section 364.163(2), Florida Statutes.

DOCKET NO. 030961-TI
ORDER NO. PSC-03-1368-CFO-TL
ISSUED: December 3, 2003

ORDER GRANTING VERIZON'S REQUEST FOR SPECIFIED CONFIDENTIAL CLASSIFICATION FOR DOCUMENT NO. 10697-03

On August 27, 2003, Verizon Florida Inc. (Verizon), Sprint-Florida, Incorporated (Sprint), and BellSouth Telecommunications, Inc. (BellSouth), each filed petitions pursuant to Section 364.164, Florida Statutes, and respective Dockets Nos. 030867-TL, 030868-TL, and 030869-TL have been opened to address these petitions in the

DOCUMENT NUMBER-DATE

12304 DEC-3 3

FPSC-COMMISSION CLERK

time frame provided by Section 364.164, Florida Statutes. On October 1, 2003, Verizon filed its amended petition.

During the 2003 Regular Session, the Florida Legislature enacted the Tele-Competition Innovation and Infrastructure Enhancement Act (Tele-Competition Act or Act). The Act became effective on May 23, 2003. Part of the new Tele-Competition Act is the new Section 364.164, Florida Statutes, whereby the Legislature established a process by which each incumbent local exchange telecommunications carrier (ILEC) may petition the Commission to reduce its intrastate switched network access rate in a revenue-neutral manner. This matter has been set for hearing on December 10-12, 2003.

On October 28, 2003, Verizon filed its Request for Confidential Classification and Motion for Protective Order. Verizon states that seeks confidential classification and a protective order for certain information contained in its second supplemental responses to OPC's First Set of Requests for Production of Documents (specifically, Nos. 4, 5, 6, 20, 21, 22) in this matter. On November 10, 2003, OPC filed its Notice of Intent to Use Confidential Information and Request For Ruling on Confidentiality. On November 17, 2003, OPC filed a supplement to its Notice of Intent to Use Confidential Information and Request For Ruling on Confidentiality.

In its Motion, Verizon asserts that all the information for which it seeks confidential treatment falls within Florida Statutes Section 364.183(3)(e), which defines the term, "proprietary confidential business information," to include "information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information." Verizon contends that if competitors were able to acquire this detailed and sensitive information regarding Verizon, they could more easily develop entry and marketing strategies to ensure success in competing with Verizon. Verizon contends that this would afford them an unfair advantage while severely jeopardizing Verizon's competitive position. Verizon asserts that in a competitive business, any knowledge obtained about a competitor can be used to the detriment of the entity to which it pertains, often in ways that cannot be fully anticipated. Verizon contends that this unfair advantage skews the operation of the market, to the

ultimate detriment of the telecommunications consumer. Verizon states that a detailed justification of the confidentiality of the information at issue is attached as Attachment A, which is incorporated by reference.

OPC filed its Notice on November 10, 2003, and its Supplement to that Notice filed on November 17, 2003. In its November 10, 2003, Notice, OPC asserts that it intends to use certain documents during the hearing in this case; specifically, those documents provided to it by Verizon on October 28, 2003, in response to its requests for PODs and marked with bate stamp numbers five through nine. OPC requested that Verizon provide a line-by-line justification for its claim of confidentiality so that it can be ruled whether the information is in fact confidential.

In its Supplemental Response, OPC also contends that Verizon's October 28, 2003, Confidential Request and Protective Order is wholly inadequate as a basis to prohibit public disclosure of the information contained in these documents. OPC contends that Verizon simply provides a boilerplate conclusion that information on almost two hundred pages of documents is confidential. OPC asserts that it makes no attempt to show why the specific information contained in the five pages cited in OPC's notice is confidential. OPC contends that, instead, Verizon only makes a general claim that could be applied to almost any information it supplies. OPC asserts that the information contained in these five pages of documents discloses essential information about the anticipated impact of Verizon's petition on customers' bills. OPC contends that Verizon had this information prior to filing its petition, yet it failed to disclose it to the public. OPC asserts the information contained in these documents should be disclosed to the public, and Verizon has not substantiated its claim for confidentiality. OPC requests that the Prehearing Officer rule that the information contained on these five pages of documents should be disclosed to the public.

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.

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 Verizon's competitors an artificial competitive advantage, allowing them to successfully compete against Verizon without the usual market trial and error. Further, after reviewing in detail the information in question, despite OPC's objection, it appears appropriate to grant confidential classification. As such, Verizon's Request for Specified Confidential Classification of Document No. 10697-03 is hereby granted. Verizon's request for Protective Order has already been granted by Order No. PSC-03-1268-PCO-TL, issued November 10, 2003, Protective Order Governing Handling of Confidential Information.

ORDER NO. PSC-03-1368-CFO-TL
DOCKETS NOS. 030867-TL, 030868-TL, 030869-TL, 030961-TI
PAGE 5


Based on the foregoing, it is

ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that Verizon Florida Inc.'s Request for Specified Confidential Classification of Document No. 10697-03, as set forth in Attachment A, is hereby granted. 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.

By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this 3rd Day of December, 2003.



RUDOLPH "RUDY" BRADLEY
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

ORDER NO. PSC-03-1368-CFO-TL
DOCKETS NOS. 030867-TL, 030868-TL, 030869-TL, 030961-TI
PAGE 6

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 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-03-1368-CFO-TL

ATTACHMENT A

DOCKET NOS. 030867-TL, 030868-TL, 030869-TL, 030961-TI

PAGE 7

EXHIBIT C

DOCUMENT	LINE(S)/COLUMN(S)	REASON
Attachment POD 4 (Bates Nos. 5-24)	All highlighted text	This is competitively sensitive, confidential and proprietary business information that has been confidentially maintained by Verizon. Disclosure of this information would cause harm to Verizon by giving its competitors an unfair advantage in developing, pricing and marketing their services. It would be particularly unfair to disclose this information because similar information about competitive carriers is not made available to the public.
Attachment POD 5 (Bates Nos. 329-489)	All highlighted text	
Attachment POD 6 (Bates Nos. 329-489; 5-24)	All highlighted text	
Attachment POD 20 (Bates Nos. 329-489)	All highlighted text	
Attachment POD 21 (Bates Nos. 5-24)	All highlighted text	
Attachment POD 22 (Bates Nos. 5-24)	All highlighted text	