

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for arbitration of certain unresolved issues associated with negotiations for interconnection, collocation, and resale agreement with Florida Digital Network, Inc. d/b/a FDN Communications, by Sprint-Florida, Incorporated.

DOCKET NO. 041464-TP
ORDER NO. PSC-05-0867-CFO-TP
ISSUED: August 29, 2005

ORDER GRANTING SPRINT-FLORIDA, INCORPORATED'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION OF DOCUMENT NO. 06778-05 (X-
REF DOCUMENT NOS. 06040-05; 06041-05; AND 06042-05)

I. Case Background

On December 30, 2004, Sprint-Florida, Incorporated (Sprint) filed its Petition for Arbitration of certain unresolved issues associated with negotiations for an Interconnection, Collocation, and Resale Agreement between itself and Florida Digital Network, Inc. d/b/a FDN Communications (FDN). On January 24, 2005, FDN filed its response to Sprint's Petition. Pursuant to Sprint's request for arbitration, this matter has been scheduled for an administrative hearing.

On June 24, 2005, Sprint filed a Notice of Intent to Request Confidential Classification (Notice of Intent), along with redacted versions of its witnesses' Rebuttal Testimonies and Exhibits. In its Notice of Intent, Sprint alleges that the redacted portions of Exhibits JMM-1 and JMM-2 of James M. Maples' Rebuttal Testimony (Document No. 06040-05), portions of page 4 of Jimmy R. Davis's Rebuttal Testimony (Document No. 06041-05), and portions of pages 2 and 3 of Peter Sywenki's Rebuttal Testimony (Document No. 06042-05) contain proprietary information.

On July 15, 2005, Sprint filed a Request for Confidential Classification (Request) claiming that information contained in its witnesses' Rebuttal Testimonies should be exempt from Section 119.07, Florida Statutes, because the information is confidential pursuant to Sections 364.24 and 364.183(3)(e), Florida Statutes. Sprint claims confidentiality for the highlighted information on line 4 on page 2 of Exhibit JMM-2, the highlighted information on lines 14-17 on page 4 of Jimmy R. Davis' Rebuttal Testimony, the highlighted information on line 23 on page 2 and lines 2, 3, and 13 on page 3 of Peter Sywenki's Rebuttal Testimony. Sprint also clarified that information in Document No. 06040-05 is not confidential as previously claimed in its Notice of Intent. Specifically, Sprint claims that none of the highlighted information in Exhibit JMM-1 is confidential nor is highlighted information in columns (h) and (i) on page 1 and 2 of Exhibit JMM-2.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Sprint asserts in its Request, that the information contained in the documents that are the subject of its Request is proprietary, confidential business information of Sprint, which if made public, would provide Sprint's customers with information that could be used to harm Sprint. Additionally, Sprint argues that the information is confidential business information of FDN, which Sprint is contractually obligated to keep confidential.

II. Standard

Pursuant to Section 119.01, Florida Statutes, documents submitted to this Commission are public records. This presumption is based on the concept that government should operate in the "sunshine." The right of access to governmental records is an important and longstanding Florida tradition embodied in both Florida Statutes and the Declaration of Rights provision of the state Constitution. The Public Records Law is to be liberally construed in favor of open government, and exemptions from disclosure are to be narrowly construed so they are limited to their stated purpose. Seminole County v. Wood, 512 So. 2d 1000 (Fla 5th DCA 1987), rev. denied 520 So. 2d 586 (Fla. 1986). The determination of whether information is proprietary confidential business information is a matter of discretion. Florida Society of Newspaper Editors, Inc. v. Florida Public Service Commission, 543 So. 2d 1262, 1265 (1st DCA 1989) rehearing den. June 12, 1989. When determining whether information should be deemed confidential, the Commission should weigh the public interest in disclosing the information with the potential harm to the entity if the information were disclosed.

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. 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, if none of the examples are applicable, show that disclosure of the information will harm the Company's ratepayers or its business operations.

III. Ruling

Upon consideration, Sprint's Request for Confidential Classification is hereby granted because it satisfies the criteria set forth in 364.183(3)(e), Florida Statutes. The information is proprietary confidential business information of Sprint, which if made public, would provide Sprint's customers with information that could be used to harm Sprint. Also, the information is proprietary confidential business information of FDN that Sprint is contractually obligated to keep confidential.

Based on the foregoing, it is

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that Sprint-Florida, Incorporated's Request for Confidential Classification of Document No. 06778-05 (x-ref Document Nos. 06040-05, 06041-05, and 06042-05), and as identified in Attachment A of this Order, is hereby granted. It is further

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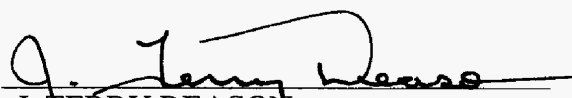
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ORDERED that pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, the confidentiality granted to the material specified herein shall expire eighteen (18) months from the date of the issuance of this Order, in the absence of a renewed request for confidentiality pursuant to Section 364.183, Florida Statutes. It is further

ORDERED that this Order shall be the only notification by the Commission to Sprint-Florida, Incorporated concerning the expiration of the confidentiality time period.

By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 29th day of August, 2005.


J. TERRY DEASON
Commissioner and Prehearing Officer

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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; 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.

ATTACHMENT A

| Document and page and line numbers | Justification for Confidential Treatment |
|--|---|
| Highlighted information on line 4 on page 2 of Exhibit JMM-2 | This information is proprietary confidential business information of Sprint, which if made public, would provide Sprint's competitors with information that could be used to harm Sprint. |
| Highlighted information on lines 14-17 on page 4 of Jimmy R. Davis' Rebuttal Testimony | This information is confidential business information of FDN that Sprint is required by contract to keep confidential. |
| Highlighted information on line 23 on page 2 & lines 2, 3, & 13 on page 3 of Peter Sywenki's Rebuttal Testimony | This information is proprietary confidential business information of Sprint, which if made public, would provide Sprint's competitors with information that could be used to harm Sprint. |