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Public Service Commission

April 20, 2007

Manuel A. Gurdian  
BellSouth Telecommunications, Inc.  
150 South Monroe Street  
Room 400  
Tallahassee, Florida 32301

Re: Docket No. 060598-TL, Petition to recover 2005 tropical system related costs and expenses, by BellSouth Telecommunications, Inc. (BellSouth); BellSouth's Request for a confidential classification for Documents Numbered 09896-06 and 10431-06

Dear Mr. Gurdian:

Denise Vandiver has asked me to prepare the staff recommendation concerning BellSouth's November 13, 2006, filing concerning the company's request for confidential classification of staff audit materials obtained during the recent 2005 Storm Cost Audit, Control No. 06-255-1-1. I have also reviewed your January 18 and January 19, 2007, responses to the inquiries made by Denise. Your cooperation in this matter is highly appreciated. Unfortunately, one perceived deficiency remains within BellSouth's November 13, 2006, request for confidential classification.

CMP \_\_\_\_\_  
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WP's 10-5.3 and 10-5.4

Section 364.183(3)(f), Florida Statutes, provides; "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. Proprietary confidential business information includes but is not limited to:

Employee personnel information unrelated to compensation, duties, qualifications and responsibilities." (Emphasis added.)

*Handwritten signature*

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These work papers include internal policies and procedures for compensation. BellSouth pleads that these policies and procedures are closely held and should not be disclosed as release of this information would harm the competitive businesses of BellSouth. Further, you have added the comment that *"...competitors ... could more easily develop strategies to lure employees away from BellSouth. This would afford them an unfair advantage while severely jeopardizing the competitive position of the company whose confidential information is disclosed. In a competitive business, any knowledge obtained through a competitor can be used to the detriment to the entity to which it pertains, often in ways that cannot be fully anticipated. This unfair advantage skews the operations of the market, to the ultimate detriment of the telecommunications customer. Accordingly, BellSouth respectfully requests that the Commission classify the identified information as confidential and enter an appropriate order protecting such information."*

Issue 1 – It appears that the information concerning compensation procedures should be well known by company employees and therefore should be considered public. BellSouth employees must follow these compensation policies and procedures so knowledge of the procedures should be well known throughout the company.

For information to qualify for a confidential classification, the information must not have been released to the public. The information must be closely held. In this instance, the procedures are given to, and practiced by, BellSouth employees.

Issue 2 – In similar matters, the Commission has interpreted the confidentiality of employee personnel information by treating employee compensation, duties, qualifications and responsibilities as public. In short, the specific language provided in Section 364.183(3)(f) F.S., has been followed over the general language provided in other parts of the Statute. Among others see:

Order No. PSC-95-0503-CFO-WS issued April 24, 1995, in Docket 950318-WS; Order No. PSC-92-1280-CFO-WS, issued November 10, 1992, in Docket 911188-WS; and Order No. 24226, issued March 12, 1991, in Docket 900960-TL.

Here much of the material pertains to employee personnel procedures covering employee duties and responsibilities and, therefore, does not appear to be eligible for a confidential classification.

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**Responses to perceived deficiencies**

In response to this remaining perceived deficiency, the company may provide additional justification as to why this material should be granted a confidential classification. Within 14 days from the date of this letter, as deemed necessary, the utility may modify its pleading, justification, redacted or highlighted copies within its request; otherwise, a recommendation will be presented to the Prehearing Officer based upon the current existing record.

If you have any questions concerning this matter, please contact me at 850-413-6485 or [bfreeman@psc.state.fl.us](mailto:bfreeman@psc.state.fl.us). If you have procedural questions, or if you would like to talk to the assigned staff attorney, please contact Adam Teitzman at 413-6175 or [ateitzma@psc.state.fl.us](mailto:ateitzma@psc.state.fl.us).

Sincerely,

*Robert Freeman*  
Robert Freeman  
Senior Government Analyst

cc: Office of General Counsel (Teitzman)  
Office of Commission Clerk (Cole, Lockard)  
Bureau of Auditing (Vandiver)  
Division of Competitive Markets and Enforcement (Wright, Merrit)