

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by DPI-Teleconnect, L.L.C.
against BellSouth Telecommunications, Inc.
for dispute arising under interconnection
agreement.

DOCKET NO. 050863-TP
ORDER NO. PSC-07-0893-CFO-TP
ISSUED: November 5, 2007

ORDER GRANTING BELLSOUTH TELECOMMUNICATIONS, INC. D/B/A AT&T
FLORIDA'S REQUEST FOR SPECIFIED CONFIDENTIAL CLASSIFICATION OF
DOCUMENT NO. 07864-07 (X-REF. DN 07025-07)

On November 10, 2005, dPi-Teleconnect, L.L.C. (dPi) filed its Complaint against BellSouth Telecommunications, Inc. d/b/a AT&T Florida (AT&T) for a dispute arising under its interconnection agreement. A Second Order Modifying Procedure, Order No. PSC-07-0814-PCO-TP, was issued on October 10, 2007, establishing a November 30, 2007, hearing date.

On August 30, 2007, AT&T filed a request for specified confidential classification. In its request, AT&T seeks confidential classification of information contained in FPSC Document Number 07864-07 (X-Ref. DN 07025-07), which is AT&T's responses to dPi's Requests for Information, Nos. 1-3, 1-16, 1-17, and 1-22. On September 25, 2007, AT&T filed a Notice of Withdrawal of Requests for Confidentiality for Nos. 1-3 and 1-17 upon waiver of confidentiality at the Pre-Hearing Conference by counsel for dPi. AT&T continues to request confidentiality for Nos. 1-16, and 1-22. AT&T asserts that Document Number 07864-07 (X-Ref. DN 07025-07) contains customer specific information and confidential proprietary business information that is confidential information pursuant to Section 364.183(3)(e), Florida Statutes and Section 364.24, Florida Statutes. Attachment A to this Order contains a detailed justification of the confidentiality of the information at issue. AT&T asserts that this information is treated as confidential and has not otherwise been released.

Florida law presumes that documents submitted to governmental agencies shall be public record. 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.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

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.

Pursuant to Section 364.183(3), Florida Statutes, it appears that the material described herein is proprietary and should be granted confidential status. Disclosure of this information would harm AT&T by giving its competitors an unfair advantage in developing their own marketing and competitive strategies. As such, AT&T’s Request for Specified Confidential Classification of certain information contained in FPSC Document Number 07864-07 (X-Ref. DN 07025-07) is hereby granted.

Based on the foregoing, it is

ORDERED by Commissioner Katrina J. McMurrian, as Prehearing Officer, that BellSouth Telecommunications, Inc. d/b/a AT&T Florida’s Request for Specified Confidential Classification of Document Number 07864-07 (X-Ref. DN 07025-07), as set forth in Attachment A, is granted. It is further

ORDERED that pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, any confidentiality granted to the documents specified herein shall expire eighteen (18) months from the date of 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 Katrina J. McMurrian, as Prehearing Officer, this 5th
day of November, 2007.


KATRINA J. McMURRIAN
Commissioner and Prehearing Officer

(S E A L)

TLT

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 Office of Commission Clerk, 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

**AT&T Florida Public Service Commission FPSC DOCKET NO: 050863-TL
REQUEST FOR CONFIDENTIAL CLASSIFICATION
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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF AT&T FLORIDA'S
RESPONSE TO DPI'S FIRST REQUEST FOR INFORMATION, NOS. 1-16, AND 1-22,
FILED AUGUST 9, 2007 IN FLORIDA DOCKET NO. 050863-TL**

Explanation of Proprietary Information

1. The proprietary material included in this document is end user customer specific information. In particular the proprietary information consists of phone numbers and/or addresses of dPi's end users. Such information is deemed by AT&T Florida to be proprietary information of AT&T Florida's customer, dPi Teleconnect, and it is also customer information that is proprietary to dPi. 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 expressly deemed to be confidential pursuant to Sections 364.183(3)(e) and 364.24, Florida Statutes.
2. The proprietary material included in this document consists of email and P-3 forms that document AT&T Florida's market planning processes and provide product analysis used to develop and roll out a retain promotion. This same information on competitors is not available to AT&T Florida. This information is valuable, it is used by AT&T Florida in conducting its business and AT&T Florida strives to keep it secret. Therefore, this information should be classified as proprietary, confidential business information pursuant to Section 364.183(3)(a), Florida Statutes and is exempt from the Open Records Act.

ATTACHMENT A

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