

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Notice of adoption of existing interconnection, unbundling, resale, and collocation agreement between BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast and Image Access, Inc. d/b/a NewPhone, Inc. by Express Phone Service, Inc.

DOCKET NO. 110087-TP
ORDER NO. PSC-12-0215-CFO-TP
ISSUED: April 23, 2012

ORDER GRANTING AT&T FLORIDA'S REQUEST FOR SPECIFIED CONFIDENTIAL CLASSIFICATION OF DOCUMENT NO. 00998-12

On February 22, 2012, pursuant to Rule 25-22.006, Florida Administrative Code (F.A.C.), BellSouth Telecommunications, Inc. d/b/a AT&T Florida (AT&T Florida) filed its 'Second Supplemental Response to Express Phone Service Inc.'s First Request for Production of Documents. Concurrently, pursuant to Section 364.183, Florida Statutes (F.S.) and Rule 25-006, F.A.C., AT&T Florida filed a Notice of Intent to Request Confidential Classification for Response No. 6. On March 6, 2012, AT&T Florida filed a Request for Specified Confidential Classification (Request) for entirety of the three CDs contained in its Second Supplement Response to Express Phone's First Request for Production of Documents, (No. 6). AT&T Florida asserts that Document No. 00998-12 is intended to be proprietary, is treated as proprietary, and has not been publicly disclosed. Attachment A, attached hereto and incorporated herein, contains a detailed justification of the confidentiality of the information at issue. AT&T Florida requests that the Commission grant confidential classification for the document for a period of 18 months from the date of the issuance of this Order, pursuant to Section 364.183, F.S.

In its Request for Confidential Classification, AT&T Florida states that Response No. 6 consists of confidential business information related to competitive interests that is proprietary to AT&T Florida. AT&T Florida also states that Sections 364.183(3)(a) and (e), F.S. provides that "proprietary confidential business information" includes "customer-specific information" and "information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information." AT&T Florida states that the information contained in the three CDs is related to competitive interests and is information containing billing records of Express Phone and thus contains customer specific information. AT&T Florida therefore concludes that this information should be classified as proprietary, confidential business information and pursuant to Section 364.183(3)(a) and (e), F.S.; is exempt from the Open Records Act; and should be granted confidential classification.

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

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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.

Pursuant to Section 364.183 (3)(a) and (e), F.S. it appears that the material described herein is proprietary confidential business information and should be granted confidential status. As such, AT&T Florida’s Request for Specified Confidential Classification of certain information contained in its Second Supplemental Response to Express Phone’s First Request for Production of Documents, (No. 6) is hereby granted.

Based on the foregoing, it is

ORDERED by Commissioner Eduardo E. Balbis, as Prehearing Officer, that AT&T Florida’s Request for Specified Confidential Classification for the entirety of the information of Response No. 6, Document No. 00998-12, is hereby granted. It is further

ORDERED that the information in Document No. 00998-12 for which confidential classification has been granted shall remain protected from disclosure for a period of 18 months from the date of issuance of this Order. At the conclusion of the 18-month period, the confidential information will no longer be exempt from Section 119.07(1), F.S., unless AT&T Florida or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information. It is further

ORDERED that this Order shall be the only notification by the Commission to the parties of the date of declassification of the materials discussed herein.

By ORDER of Commissioner Eduardo E. Balbis, as Prehearing Officer, this 23rd day of April, 2012.



EDUARDO E. BALBIS
Commissioner and Prehearing Officer
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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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 Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, 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.

Request for Confidential Classification of AT&T Florida's Second Supplemental Response to Express Phone Service Inc.'s First Request for Production of Documents, No. 6.

Filed March 6, 2012

Explanation of Proprietary Information

1. The attached information contains Express Phone's customer-specific billing data. The disclosure of this information to Express Phone's competitors is likely to give them an undue advantage and cause competitive harm to Express Phone. AT&T Florida treats this information as confidential information and protects it from disclosure. Therefore, this information constitutes proprietary confidential business information pursuant to Section 364.183(3)(a) and (e), F.S.

Document	Location:	Reason:
305Q926878	CD-1	1
561Q926878	CD-2	1
904Q926878	CD-3	1