

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into
pricing of unbundled network
elements.

DOCKET NO. 990649-TP
ORDER NO. PSC-01-2505-CFO-TP
ISSUED: December 21, 2001

ORDER GRANTING REQUESTS FOR CONFIDENTIAL TREATMENT
OF DOCUMENT NOS. 08630-00 AND 08944-00

On December 10, 1998, in Docket No. 981834-TP, the Florida Competitive Carriers Association (FCCA), the Telecommunications Resellers, Inc. (TRA), AT&T Communications of the Southern States, Inc. (AT&T), MCIMetro Access Transmission Services, LLC (MCIMetro), WorldCom Technologies, Inc. (WorldCom), the Competitive Telecommunications Association (Comptel), MGC Communications, Inc. (MGC), Intermedia Communications Inc. (Intermedia), Supra Telecommunications and Information Systems (Supra), Florida Digital Network, Inc. (Florida Digital Network), and Northpoint Communications, Inc. (Northpoint) (collectively, "Competitive Carriers") filed their Petition of Competitive Carriers for Commission Action to Support Local Competition in BellSouth's Service Territory. Among other matters, the Competitive Carriers' Petition asked that this Commission set deaveraged unbundled network element (UNE) rates.

On May 26, 1999, this Commission issued Order No. PSC-99-1078-PCO-TP, granting in part and denying in part the Competitive Carriers' petition. Specifically, the Commission granted the request to open a generic UNE pricing docket for the three major incumbent local exchange providers, BellSouth Telecommunications, Inc. (BellSouth), Sprint-Florida, Incorporated (Sprint), and GTE Florida Incorporated (GTEFL). Accordingly, this docket was opened to address the deaveraged pricing of UNES, as well as the pricing of UNE combinations and nonrecurring charges.

By Order No. PSC-99-1397-PCO-TP, issued July 20, 1999, the procedures for this docket were established and the controlling dates set. A Second Revised Order on Procedure, Order No. PSC-00-0540-PCO-TP, was issued on March 16, 2000, which set forth new filing dates and also the newly refined issues to be addressed in this proceeding. By Order No. PSC-00-2015-PCO-TP, issued June 8, 2000, the filing dates were extended and the procedure for this case was further modified. Pursuant to these Orders, Phase I was

DOCUMENT NUMBER-DATE

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set for hearing July 17-19, 2000, and Phase II was set for hearing September 19-22, 2000.

On July 24, 2000, AT&T filed two requests for confidential treatment. In these requests, AT&T seeks confidential treatment of Hearing Exhibit 31 (Document No. 08630-00), admitted into the record during our hearing on July 17, 2000, and late-filed Hearing Exhibit 59 (Document No. 08944-00) from that same hearing. AT&T argues that these exhibits are treated by AT&T as confidential and have not otherwise been disclosed.

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.

Specifically, with regard to Hearing Exhibit 31, AT&T contends that all columns and all rows in table set forth on pages 2 through 7 of the exhibit contain the depreciation lives for AT&T network equipment and facilities. The company maintains that this provides information regarding equipment deployed by AT&T to the extent that, if disclosed, it would enable a competitor to determine the overall design of AT&T's network, as well as the financial commitment to that network. AT&T believes that this information would provide competitors with an advantage in determining the overall strengths and weaknesses in AT&T's network and AT&T's business strategy. AT&T contends that the information constitutes both trade secrets and information related to the competitive interests of the company the disclosure of which would harm AT&T's ability to compete; thus, the information meets the definition of "proprietary confidential business information" set forth in Section 364.183(3), Florida Statutes. For these reasons, AT&T asks that this information be granted confidential treatment.

With regard to late-filed Hearing Exhibit 59, AT&T contends that this exhibit on all pages, all columns, and all rows, also contains depreciation information. This information pertains to AT&T's switching, transport, signaling, and other network assets. If disclosed, AT&T contends that the information would allow a competitor to determine the overall design, capacity, and financial commitment of AT&T's network. With such information, AT&T contends that a competitor could determine the strengths and weaknesses of AT&T's network and business strategies. AT&T contends that the information constitutes both trade secrets and information related to the competitive interests of the company the disclosure of which would harm AT&T's ability to compete; thus, the information meets the definition of "proprietary confidential business information" set forth in Section 364.183(3), Florida Statutes. For these reasons, AT&T asks that this information be granted confidential treatment.

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 could be detrimental to AT&T's operations and could impair AT&T's ability to compete. As such, AT&T's Requests for Confidential Classification regarding Document Nos. 08630-00 and 08944-00 are hereby granted.

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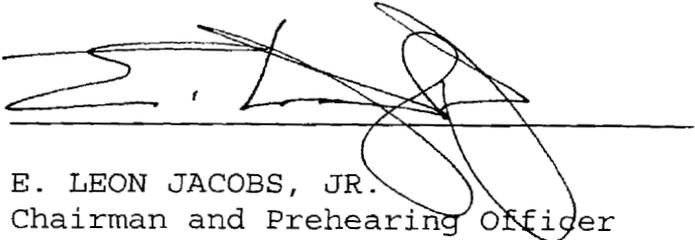
Based on the foregoing, it is therefore

ORDERED by Chairman E. Leon Jacobs, Jr., as Prehearing Officer, that AT&T Communications of the Southern States' Requests for Specified Confidential Classification filed on July 24, 2000, addressing Document Nos. 08630-00 and 08944-00 respectively, are hereby granted.

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 Chairman E. Leon Jacobs, Jr. as Prehearing Officer, this 21st Day of December, 2001.



E. LEON JACOBS, JR.
Chairman 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.

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 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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.