

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies.
(BELLSOUTH TRACK)

DOCKET NO. 000121A-TP
ORDER NO. PSC-03-0496-PCO-TP
ISSUED: April 16, 2003

ORDER GRANTING REQUEST FOR
EXTENSION OF CONFIDENTIAL TREATMENT

On May 2, 2001, BellSouth Telecommunications, Inc. (BellSouth) filed its Request for Confidential Classification of its response to Staff's First Request for Production of Documents Item No. 1, which has been identified as Document No. 05574-01 (cross-reference Document No. 04434-01), and as Exhibit 4 at the hearing in this docket. On May 22, 2001, we issued Order No. PSC-01-1163-CFO-TP, granting confidential classification to Document No. 05574-01. On November 21, 2002, BellSouth filed a Motion for Extension of Duration of Order No. PSC-01-1163-CFO-TP.

On November 21, 2002, BellSouth filed a Motion for Extension of Duration of Order No. PSC-01-1163-CFO-TP. BellSouth maintains that the reasons originally asserted in support of its May 2, 2001 request for confidential treatment continue to pertain. BellSouth asserts that the document contains the Performance Measurements Quality Assurance Plan (PMQAP), which documents and maintains the systematic procedures used to ensure that BellSouth produces accurate and reliable service quality measurement reports. Further, BellSouth states that other entities have inquired as to whether BellSouth's programs would be commercially available, thus demonstrating that the information is commercially valuable and constitutes proprietary business information. Consequently, BellSouth asserts that the information contained in its response is proprietary and confidential pursuant to Sections 364.183 and 364.24, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. BellSouth further states that there is still a need to protect customer-specific-proprietary business information and information which is not subject to public disclosure.

DOCUMENT NUMBER DATE

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FPSC-COMMISSION CLERK

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.

Section 364.183(3), Florida Statutes, states that "proprietary confidential business information" is

[o]wned 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 information for which BellSouth seeks extension of the confidential classification is information that, if disclosed, would cause harm to BellSouth's business operations. Thus, this information qualifies as proprietary confidential business information under Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. Also, any customer-specific information should be protected in accordance with Section 364.24, Florida Statutes. I note that our staff has retained the information at issue because this Docket remains open and active. We have previously granted the information confidential treatment, and BellSouth asserts that there is still a need to protect it. As such, BellSouth's request for confidential classification is hereby granted. The confidentiality period shall be extended for a period of 18 months from the issuance of this order.

ORDER NO. PSC-03-0496-PCO-TP
DOCKET NO. 000121A-TP
PAGE 3

Based on the foregoing, it is

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that BellSouth Telecommunications, Inc.'s Motion for Extension of the Duration of Order No. PSC-01-1163-CFO-TP Granting Confidential Classification BellSouth Telecommunications, Inc.'s Request for Confidential Classification of its response to Staff's First Request for Production of Documents Item No. 1 which has been identified as Document No. 05574-01 (cross-reference Document No. 04434-01) to is hereby 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 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 Commissioner J. Terry Deason as Prehearing Officer, this 16th day of April, 2003.



J. TERRY DEASON
Commissioner and Prehearing Officer

(S E A L)

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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.