

BEFORE THE 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-06-0043-CFO-TP  
ISSUED: January 17, 2006

ORDER GRANTING BELLSOUTH TELECOMMUNICATIONS, INC.'S  
REQUEST FOR SPECIFIED CONFIDENTIAL CLASSIFICATION  
OF DOCUMENT NO. 09280-05

**I. Case Background**

By Order No. PSC-01-1819-FOF-TP, issued September 10, 2001, in Docket No. 000121A-TP, this Commission adopted a Performance Assessment Plan for purposes of monitoring performance levels of Operations Support Systems provided to Competitive Local Exchange Telecommunications Companies (CLECs). The Performance Assessment Plan comprises a Service Quality Measurement Plan (SQM) and a Self-Effectuating Enforcement Mechanism (SEEM) Administrative Plan. The SQM is a comprehensive and detailed description of BellSouth Telecommunications, Inc.'s (BellSouth) performance measurements. BellSouth's SQM Plan currently consists of 90 measurements with each related to a specific portion of BellSouth's Operations Support Systems. The SEEM Plan includes key measures to which remedy payments are applied if BellSouth fails to meet the performance standards as agreed by the parties and approved by this Commission.

In May 2004, BellSouth filed a motion for the establishment of a new Performance Assessment Plan in Florida that was subsequently withdrawn. In July 2004, this Commission initiated a second review of the current Performance Assessment Plan. A series of workshops and conference calls resulted in our staff proposing significant changes to the SQM and SEEM plans.

In January 2005, BellSouth and interested parties began negotiating on some of the more controversial aspects of the plan. On April 5, 2005, BellSouth and the CLECs entered into a Stipulated Agreement to execute changes to BellSouth's current Performance Assessment Plan.

On May 5, 2005, Order PSC-05-0488-PAA-TP was issued approving the parties' stipulated changes to BellSouth's Performance Assessment Plan for Florida. The Stipulated Agreement streamlined service quality measures and modified the remedy calculation approach from measurement-based to transaction-based.

On August 24, 2005, Commission staff sent a letter to BellSouth regarding the findings of the Liberty Consulting Group's review of BellSouth's Performance Assessment Plan.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

On September 29, 2005, BellSouth filed a Request for Specified Confidential Classification. In its request, BellSouth seeks confidential classification of information contained in its responses to Item Nos. 2, 3, 5, 6a, 6b, and 8 (Document No. 09280-05) in staff's August 24, 2005 letter. Attachment A, attached hereto and incorporated herein, contains a detailed justification of the confidentiality of the information at issue. I understand that BellSouth treats this information as confidential and it has not otherwise been released.

## II. Analysis

Florida law presumes that documents submitted to governmental agencies are public records. The only exceptions to this presumption are the specific statutory exemptions provided in the law and exemptions granted by governmental agencies under 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, places the burden on the company to demonstrate that received 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 harm the company or its ratepayers.

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, 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 harm BellSouth by giving its competitors an unfair advantage in developing their own competitive strategies. As such, BellSouth's Request for Specified Confidential Classification of its responses to Item Nos. 2, 3, 5, 6a, 6b, and 8 in staff's August 24, 2005 letter is hereby granted.


Based on the foregoing, it is

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that BellSouth Telecommunications, Inc.'s Request for Confidential Classification of Document No. 09280-05, as set forth in Attachment A, which is attached and incorporated herein, is granted. It is further

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 shall be the only notification by the Commission to BellSouth Telecommunications, Inc. concerning the expiration of the confidentiality time period.

By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 17th day of January, 2006.

  
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.

ATTACHMENT A

BellSouth Telecommunications, Inc.  
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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S  
RESPONSES TO THE FLORIDA PUBLIC SERVICE COMMISSION STAFF'S SEEMS  
REQUESTS, ITEM NOS. 2, 3, 5, 6 AND 8 AS FILED SEPTEMBER 8, 2005,  
IN FLORIDA DOCKET NO. 000121A-TP**

**Explanation of Proprietary Information**

1. This material is proprietary and confidential business information of a technical nature used by BellSouth in conducting its business and not commonly known by or available to the public. BellSouth derives economic value from this information not being generally known to, and not being readily ascertainable by competitors who can obtain economic value from its disclosure. Specifically, this document contains information related to the findings of The Liberty Consulting Group in their review of BellSouth's performance measurement plan. The network operations/systems that are necessary to implement this plan and the functions each perform, as well as specific coding of order is considered proprietary and confidential to BellSouth as it describes BellSouth's internal operations. Furthermore, this information has been prepared at great cost to BellSouth. Therefore, this information is entitled to confidential classification pursuant to Section 364.183(3)(e) of the Florida Statute.

Location

Reason

**Item No. 2**

Page 1 of 1, Lines 1-57, Column B

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**Item No. 5**

**5(a)** – all pages

1

**5(b)** – all pages

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**5(c)** – all pages

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**5(d)** – all pages

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**5(e)** – all pages

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**5(f)** – all pages

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<u>Location</u>	<u>Reason</u>
5(g) – all pages	1
5(h) – all pages	1
5(i) – all pages	1
5(j) – all pages	1
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5(l) – all pages	1
5(m) – all pages	1
5(n) - all pages	1
5(o) – all pages	1
5(p) – all pages	1
5(q) – all pages	1
 <u>Item No. 6</u>	
6a – pages 1-11, Column E, all lines	1
6b – pages 1-5, Column E. all lines	1
 <u>Item No. 8</u>	
Column I, lines 1-17	1