

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for relief from carrier-of-last-resort (COLR) obligations pursuant to Section 364.025(6)(d), F.S., for Villages of Avalon, Phase II, in Hernando County, by BellSouth Telecommunications, Inc. d/b/a AT&T Florida

DOCKET NO. 070126-TL  
ORDER NO. PSC-08-0040-CFO-TL  
ISSUED: January 17, 2008

ORDER GRANTING IN PART BELL SOUTH TELECOMMUNICATIONS, INC.  
D/B/A AT&T FLORIDA'S REQUEST  
FOR SPECIFIED CONFIDENTIAL CLASSIFICATION OF  
DNs 06538-07 AND 06539-07 (x-ref DN 07439-07)

Pursuant to Rule 25-22.006, Florida Administrative Code (F.A.C.), this Order grants to material in certain documents "specified confidential classification," thereby designating the material as "proprietary confidential business information" within the meaning of Section 364.183(3), Florida Statutes (F.S.). This classification exempts the material from the disclosure requirements of Section 119.07(1), F.S.

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 pursuant to the specific terms of a statutory provision. The specific statutory exemption applicable here is found in Sections 364.183 (3) and (4), F.S., which have been implemented through Rule 25-22.006, F.A.C. Under these rules, it is the burden of the company to establish that the documents it seeks to protect are entitled to exemption from disclosure requirements of the public records law.

During the course of this proceeding, BellSouth Telecommunications, Inc. d/b/a AT&T Florida (AT&T Florida) filed in this docket documents that it claims contain proprietary confidential business information. More specifically, AT&T Florida claims that the documents include "(i) nformation relating to competitive interests, the disclosure of which would impair (its) competitive business . . . ." <sup>1</sup> The documents subject to the request are as follows:

- (1) DN 06538-07 [Portions of the direct testimony of Elizabeth R.A. Shiroishi that AT&T Florida];
- (2) DN 06539-07 [Exhibit Nos. LB-2, LB-3, LB-4 and LB-6, attached to the direct testimony of Larry Bishop].

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<sup>1</sup> Section 364.183(3) (e), F.S.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Upon review of these documents it appears that the information contained in DN 06538-07 is proprietary confidential business information within the meaning of Section 364.183, F.S. For this reason, the Request for Specified Confidential Classification is granted with respect to DN 06538-07.

With respect to DN 06539-07, however, AT&T Florida's request is not granted *in toto*. Exhibits LB-3 and LB-6 contain three financial figures that were previously voluntarily disclosed by the company.<sup>2</sup> Specifically, both exhibits include the following:

- (1) AT&T Florida's total cost to build its network in the development;
- (2) the projected five times annual exchange revenues; and
- (3) the total billing charges AT&T Florida wishes to assess the developer.

Under the explicit wording of Section 364.183(3), F.S., such previously disclosed information is disqualified as "proprietary confidential business information." Consequently, these three numbers are currently part of the public record and subject to the disclosure requirements of Section 119.07(1), F.S., and so they must remain.

For the reasons given above, the Request for Specified Confidential Classification with respect to DN 06539-07 is granted in full as to Exhibits LB-2 and LB-4, but granted *in part* as to Exhibits LB-3 and LB-6 because the designated classification includes all information claimed by the company to be confidential *except* the above noted financial figures.

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 Confidential Classification document DN 06538-07( x-ref DN 07439-07) is granted. It is further

ORDERED that BellSouth Telecommunications, Inc. d/b/a AT&T Florida's Request for Confidential Classification of DN 06539-07 (x-ref DN 07439-07) is granted in part as described herein. It is further

ORDERED that the findings in the body of this Order are affirmed in every respect. It is further

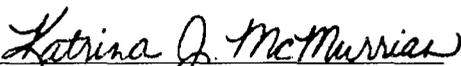
ORDERED that pursuant to Section 364.183, F.S., and Rule 25-22.006, F.A.C., any confidentiality granted to the documents specified herein shall expire eighteen (18) months from the date of issuance of this Order in the absence of a renewed request for confidentiality pursuant to Section 364.183, F.S. It is further

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<sup>2</sup> The information appears in the prefiled direct testimony of AT&T Florida witness Larry Bishop at page 8, lines 10-12; page 11, line 23; and page 12, lines 7-12.

ORDERED that this Order shall 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 17th day of January, 2008.

  
KATRINA J. McMURRIAN  
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 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.