

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Number Utilization Study:
Investigation into Number
Conservation Measures.

DOCKET NO. 981444-TP
ORDER NO. PSC-00-0196-PCO-TP
ISSUED: January 26, 2000

PROTECTIVE ORDER GRANTING PETITION TO
INSPECT AND EXAMINE CERTAIN CONFIDENTIAL INFORMATION

On October 29, 1998, we initiated an investigation into number conservation measures intended to retard the rapid depletion of area codes in Florida. By letter dated September 24, 1999, our staff requested certain data from all area code holders in Florida. Several companies filed their responses under a claim of confidentiality in accordance with Rule 25.22.006(5), Florida Administrative Code.

On December 13, 1999, the Citizens of Florida, by and through Public Counsel (OPC), filed a Petition to Inspect and Examine Material Claimed to be Confidential (Petition) in this proceeding. The following companies (hereinafter referred to collectively as "Respondents") timely filed responses to OPC's Petition: BellSouth Telecommunications, Inc. (BellSouth) on December 20, 1999; BellSouth Mobility Inc. (BMI) on December 23, 1999; AT&T Communications of the Southern States, Inc. and AT&T Wireless Services, Inc. (collectively, AT&T) on December 23, 1999. Omnipoint Communications MB Operations, LLC d/b/a Omnipoint Communications (Omnipoint) and Aerial Communications, Inc. (Aerial) filed a response on December 27, 1999. Under Rule 25-22.006(5)(c)2., Florida Administrative Code, Omnipoint's and Aerial's response was not timely filed. Therefore, their response is not addressed herein.

In support of its Petition, OPC cites Rule 25-22.006, Florida Administrative Code, which allows any person to file a petition to inspect and examine material claimed to be confidential. Specifically, OPC requests the opportunity to inspect and examine twenty documents filed in this proceeding. The documents are as follows:

<u>Document Number</u>	<u>Date filed</u>	<u>Company</u>
04488-99	4/7/99	Sprint

DOCUMENT NUMBER-DATE

01146 JAN 26 8

PSC-RECORDS/REPORTING

<u>Document Number</u>	<u>Date filed</u>	<u>Company</u>
04501-99	4/7/99	MCIIm
04870-99	4/16/99	Omnipoint
04897-99	4/19/99	AT&T
05796-99	5/6/99	Omnipoint
12546-99	10/15/99	MCI WorldCom
12653-99	10/15/99	Aerial
12655-99	10/15/99	Omnipoint
12661-99	10/15/99	BMI
13008-99	10/22/99	Global Naps
13163-99	10/26/99	BellSouth
13351-99	11/1/99	Nextel
13524-99	11/3/99	Omnipoint
13526-99	11/3/99	Aerial
13644-99	11/5/99	BMI
13672-99	11/8/99	ITC^DeltaCom
13674-99	11/8/99	GTE Wireless
13676-99	11/8/99	BellSouth
13945-99	11/12/99	AT&T
14067-99	11/16/99	BellSouth

OPC states that it does not object to the issuance of a temporary protective order to protect this information while OPC makes an initial inspection and examination of the documents. I note that OPC did not file a reply to the responses as provided in Rule 25-22.006(5)(c)2., Florida Administrative Code.

In its Response, BellSouth states that it does not object to permitting OPC to inspect the confidential information provided an appropriate Protective Order with certain conditions is first entered. BellSouth asks that the Order permit OPC to inspect

information identified in its petition solely for purposes of this docket. BellSouth asks that the Order specify that access to the information will be limited to those individuals at the Office of Public Counsel who are actively participating in this docket. BellSouth also asks that each such individual be required to review the protective order prior to receiving access to the information, execute a form acknowledging that the individual has read and understands the Protective Order, and agree to be bound by its terms. BellSouth further requests that the Order specify that OPC must retain copies of all such executed acknowledgment forms. Finally, BellSouth requests that the Order require OPC to return or destroy any document, including notes or other documents created by OPC, that incorporates or includes any of BellSouth's confidential information at the conclusion of the proceeding.

BMI and AT&T also did not object to OPC's inspection and examination of the information. Furthermore, these companies asked that a Protective Order be issued containing substantially the same conditions sought by BellSouth.

Pursuant to Section 364.183, Florida Statutes:

The Commission may require a telecommunications company to file records, reports or other data directly related to matters within the Commission's jurisdiction in the form specified by the Commission and may require such company to retain such information for a designated period of time. Upon request of the company or other person, any records received by the commission which are claimed by the company or other person to be proprietary confidential business information shall be kept confidential and shall be exempt from section 119.07(1), Florida Statutes, and Section 24(a), Art. 1 of the State Constitution.

In addition, under Rule 25-22.006(3)(d), Florida Administrative Code:

All material that is subject to a claim of confidentiality as provided for in Section 364.183(1), Florida Statutes, shall be exempt from Section 119.07(1), Florida Statutes, and

will be accorded stringent internal procedural safeguards against public disclosure.

Rule 25-22.006(5)(c)2., Florida Administrative Code, provides that any person may file a petition to inspect and examine any material which has been claimed confidential pursuant to 364.183(1), Florida Statutes. After time has run for response and reply, the Commission may set the matter for hearing or issue a ruling on the pleadings.

The Respondents requested that OPC's inspection and examination of the information identified be solely for the purpose of this docket. This condition is reasonable and appropriate in this instance; therefore, I find that this condition shall apply.

The Respondents also request that access be limited to individuals from OPC who are participating in the docket. They further request that those individuals be required to review the protective order, execute a form acknowledging that they have read and understand the protective order and agrees to be bound by its terms, and that OPC retain copies of all such executed forms. Limiting access to the documents to counsel of record participating in the docket is also a reasonable condition. I believe it is appropriate, however, to broaden the limitation in this instance to allow inspection by other individuals employed by OPC who are actively involved in this docket because of the technical nature of the subject matter. However, I do not find it appropriate to require OPC counsel or its staff to execute an acknowledgment form. The terms of this Order and Commission Rule 25-22.006, Florida Administrative Code, are sufficient to govern the handling of this information in this proceeding.

I shall also require OPC to notify each company of the specific information it intends to use should this proceeding progress to hearing. Finally, the procedures established in 25-22.006, Florida Administrative Code, shall be followed with regard to any notes or other documents created by OPC that are used in this proceeding. This Order will govern the handling of proprietary information in this docket until a final determination is made on specific items of information for which confidential treatment is requested.

Based upon the foregoing, it is

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ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that Citizens' of Florida, by and through Public Counsel, Petition to Inspect and Examine Material Claimed to be Confidential is granted with the conditions set forth in the body of this Protective Order.

By ORDER of Commissioner J. Terry Deason as Prehearing Officer, this 26th day of January, 2000.



J. TERRY DEASON
Commissioner and Prehearing Officer

(S E A L)

DWC

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, 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,

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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 Records and Reporting, 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.

FLORIDA PUBLIC SERVICE COMMISSION - RECORDS AND REPORTING

Requisition for Photocopying and Mailing

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Number of Originals _____ Copies Per Original _____

Requested By _____

Item Presented

____ Agenda For (Date) _____ Order No. _____ In Docket No. _____
____ Notice of _____ For (Date) _____ In Docket No. _____
____ Other _____

Special Handling Instructions

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Distribution/Mailing

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_____	Docket Mailing List - Mailed	_____	_____
_____	Docket Mailing List - Faxed	_____	_____

Note: Items must be mailed and/or returned within one working day after issue unless specified here:

Print Shop Verification

Job Number 238 Verified By W.S.
Date and Time Completed 1-27-00 Job Checked For Correctness and Quality (Initial) _____

Mail Room Verification

Date Mailed 1/27 Verified By _____

MEMORANDUM

January 21, 2000

RECEIVED-PPSC

00 JAN 26 AM 10:33

RECORDS AND REPORTING

TO: DIVISION OF RECORDS AND REPORTING
FROM: DIVISION OF LEGAL SERVICES (CALDWELL) *DWC*
RE: DOCKET NO. 981444-TP - NUMBER UTILIZATION STUDY: INVESTIGATION INTO NUMBER CONSERVATION MEASURES.

0196-PCO

Attached is a PROTECTIVE ORDER GRANTING PETITION TO INSPECT AND EXAMINE CERTAIN CONFIDENTIAL INFORMATION to be issued in the above-referenced docket. (Number of pages in order - 6)

DWC/sa
Attachment
cc: Division of Telecommunications (Ileri)
I:981444po.dwc

*pg 2
- pls correct*

*900
Self/mailed*

MUST GO TODAY

*Also,
will mail to all
parties.*

*Faxed to O.P.C.
Charles Bern. 1/26/00*

*12/5
Faxed to Parties
whos conf. information
will be reviewed by
O.P.C.*