

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Comprehensive review of revenue requirements and rate stabilization plan of SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY.)	DOCKET NO. 920260-TL
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In Re: Investigation into the integrity of SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S repair service activities and reports.)	DOCKET NO. 910163-TL
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In Re: Investigation into SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S compliance with Rule 25-4.110(2), F.A.C., Rebates.)	DOCKET NO. 910727-TL
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In Re: Show cause proceeding against SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY for misbilling customers.)	DOCKET NO. 900960-TL
)	ORDER NO. PSC-93-0814-CFO-TL
)	ISSUED: May 26, 1993
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ORDER DENYING REQUEST FOR CONFIDENTIAL CLASSIFICATION OF DOCUMENT NO. 13489-92

On June 2, 1992, the Staff of this Commission served its second request for production of documents (POD) upon BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company (Bell). On November 17, 1992, Bell submitted its responses to POD Items 22, 23, 24A, 24G, 24H, 65, and 66, which were designated by this Commission as Documents Nos. 13485-92 through 13491-92, along with a request for confidential classification of these materials. This discussion concerns Document No. 13489-92, Bell's response to Item No. 24H.

Under Section 119.01, Florida Statutes, documents submitted to this Commission are public records. The only exceptions to this law are specific statutory exemptions and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision.

Pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, the burden of proving that the materials qualify for specified confidential classification falls

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upon Bell. According to Rule 25-22.006, Florida Administrative Code, Bell must meet this burden by demonstrating that the materials fall into one of the statutory examples set forth in Section 364.183, Florida Statutes, or by demonstrating that the information is proprietary confidential business information, the disclosure of which will cause Bell or its ratepayers harm.

The information contained in Document No. 13489-92 concerns Bell's LATA plan for the Southeast LATA for 1990. In its request, Bell offered a variety of different justifications for its claims for confidential classification. Bell's first argument is that some of the information includes vendor-specific pricing information, the disclosure of which would impair its ability to contract for goods and/or services on favorable terms. By this time, however, Bell will have already made purchasing decisions through 1994. Bell has not advanced a cogent argument which would allow this Commission to conclude that price information from 1990 will negatively impact its contract negotiations beyond 1994. Its request for confidential classification of these materials is, therefore, denied.

Bell next argues that certain portions of the materials reflect Bell's costs to provide services, and that disclosure of this information would allow its competitors to undercut it in the marketplace. Again, this information concerns 1990 costs. Costs, services, and even the marketplace have changed substantially since 1990. The very age of the information attenuates its usefulness to Bell's competitors. Bell's request for confidential classification of this information is, therefore, denied.

Bell also argues that some of the information depicts new services or capabilities that certain vendors plan to offer. According to Bell, if this information is disclosed, these vendors would be reluctant to provide such information to Bell in the future, impairing Bell's ability to contract for goods and services. It is difficult to see how the disclosure of information regarding 1990 projected services and capabilities could cause anybody harm. As noted above, the marketplace has changed a good deal since 1990. Accordingly, the value of this information must also be greatly attenuated. Bell's request for confidential classification of this information is, therefore, denied.

Bell has also requested confidential classification for information concerning its 1990 projected units for competitive services. As discussed above, the age of this information must

preclude its usefulness to Bell's competitors. Accordingly, Bell's request for confidential classification of this information is also denied.

Bell has also requested confidential classification for certain demographic data. However, as noted by Bell, the underlying information is a matter of public record. Moreover, the information for which confidential classification is requested is revenue information regarding one specific vendor. Again, since this is 1990 data, it is doubtful that it could have any real value to Bell's competitors at this time. Accordingly, Bell's request for confidential classification of this information is denied.

Finally, Bell has requested confidential classification for information regarding Bell's projected deployment of facilities, including digital and fiber optic equipment. Bell argues that disclosure of this information could allow its competitors to "beat it" to the marketplace. Again, however, this is 1990 information, and its value to competitors would be marginal, at best. Accordingly, no valid interest would be served by classifying these materials as confidential. Bell's request is, therefore, denied.

Based upon the foregoing, it is

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that the request by BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone & Telegraph Company for confidential classification of Document No. 13489-92 is hereby denied, as set forth in the body of this Order.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 26th day of May, 1993.


SUSAN F. CLARK, Commissioner and
Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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 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.