

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation to determine whether LEC PATS is competitive and whether LEC PATS should be regulated differently than it is currently regulated.) DOCKET NO. 920255-TL
) ORDER NO. PSC-93-1513-CFO-TL
) ISSUED: October 14, 1993
)
)

ORDER ADDRESSING REQUEST FOR SPECIFIED CONFIDENTIAL
CLASSIFICATION OF DOCUMENT NUMBER 10713-92

This Order addresses an unopposed request for specified confidential classification filed by the Florida Pay Telephone Association, Inc. (FPTA) for discovery responses provided by the following companies:

- A. Adtel Communications, Inc.
- B. American Payphones, Inc.
- C. Communications Central, Inc.
- D. Liberty Tel, Inc.
- E. Northern Florida Telephone Co.
- F. Paramount Communications
- G. Peoples Telephone Company
- H. Rextel Communications-Vending
- I. TELSO, Inc.
- J. 2001 Telecommunications, Inc.

These ten companies are members of FPTA and provided responses to discovery served upon FPTA by various parties. The letter codes shown here for each of the ten companies are also used in Appendix "A." FPTA asserts generally that the material for which confidential classification is sought is intended to be and is treated by FPTA and the companies as private and has not been disclosed except pursuant to agreement to maintain confidentiality.

Under Section 119.01, Florida Statutes, documents submitted to governmental agencies 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 upon FPTA. According to Rule 25-22.006, FPTA must meet this burden by demonstrating that the materials fall into one of the statutory examples set forth in Section 364.183, or by demonstrating that the

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information is proprietary confidential information, the disclosure of which will cause the named companies harm.

At the hearings held on August 25-28, 1992, in this docket, BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company (Bell) sponsored late filed Exhibit No. 35, which is now part of the record for this proceeding. On September 16, 1992, FPTA filed its Request for Confidential Treatment for this Exhibit. This information is filed under Commission Document No. 10713-92.

The information for which FPTA has requested specified confidential treatment is set forth in Appendix "A" to this Order. FPTA has asserted six reasons for granting specified confidential treatment to this information. Each of these reasons is set forth below, along with a number which is also reflected in Appendix "A."

1. This information provides the member company's total revenues and total costs associated with providing pay telephone service. It further identifies the discrete categories of revenues and costs associated with providing such service. The public disclosure of this information would provide competitors with an advantage by permitting competitors to derive the revenues and costs of the individual FPTA member in providing pay telephone service to the public. It would also give competitors commercially valuable information not otherwise available in the marketplace. Similar information has been granted confidential classification in Commission Orders Nos. 18056, 18300, 19780, 22116, and 24531.
2. This information relates to commissions paid by individual member companies to premises owners. Specifically, it provides such data as the members' commission structures, total commissions paid, the range of commissions, bid information, premises owners receiving lump sum bonuses, and premises owners receiving the highest commissions. Public disclosure of this information would impede the member's ability to bargain for locations and contract with premises owners for the placement of pay telephone services based in part upon his or her analysis of current and future market

potential. If this information is publicly disclosed, markets may be abandoned or not entered, additional or enhanced facilities may not be installed, or installation decisions may otherwise be negatively affected. The public release of this information clearly would provide an advantage not presently available to competitors which include other FPTA members, pay telephone providers who are not FPTA members, and the local exchange companies. The Commission has designated as confidential data relating to contractual relationships with vendors of services in Orders Nos. 20323, 21362, and 24351.

3. This information relates to alternative operator services (AOS) and interexchange carrier (IXC) business relationships with FPTA members. Specifically, it identifies such information as the commission programs, business relationships, and amount of commissions paid by AOS/IXCs to individual members. The confidentiality of such information enhances the member's ability to negotiate the best deal possible on price and service. Disclosure of this information would impair the efforts of the company to contract for AOS/IXC services on favorable terms. In Order No. 21362, the Commission granted confidential classification to similar types of information.
4. This information provides the phone placement criteria of individual FPTA members. Specifically, the information conveys minimum threshold revenue requirements, percentages of phones placed in particular types of locations, marketing plans, displacement of LEC and nonLEC pay telephones, and new locations served. Phone placement criteria vary from supplier to supplier. Knowledge of such criteria would allow the member's competitors an advantage not otherwise available in the marketplace and is the type of information Section 364.183(3)(e) was designed to protect. Public disclosure of such information would impair the ability of responding FPTA members to contract with premises owners and to obtain locations and services at favorable terms and conditions.

5. This information is contractual information between individual FPTA members and their premises owners, which, if made public, would impair the efforts of the company to contract for services on favorable terms. Critical components of any negotiation for locations and services at mutually agreeable terms and conditions are the underlying service components. FPTA members compete among themselves, with other pay telephone providers, and with the LECs for the placement of pay telephones. In this environment, the confidentiality of location contracts enhances each FPTA member's ability to negotiate the best deal possible on price and service. Public disclosure would competitively disadvantage responding FPTA members and impair the competitive business of the members.

6. This information provides traffic data for individual FPTA members. Specifically, it relates to such data as the average number and duration of local, intraLATA toll, and interLATA toll calls placed from a nonLEC payphone. The compilation of the information provided is used in the course of business by FPTA members and its public release would provide an advantage, or opportunity to obtain an advantage, not presently available to competitors. As such, the data constitutes information relating to the competitive interests of FPTA members, the disclosure of which would impair the competitive business of the responding member.

Upon review, I agree that the information listed in Appendix "A" should be held confidential, with the exception of the data noted below. Accordingly, the information set out in Appendix "A" shall be granted confidential treatment and shall be exempt from Section 119.07(1).

The information on page 94, lines 16-20, is a breakdown of revenue categories of one of the companies. This information does not include any figures and cannot harm the company if disclosed. The information on page 95, line 1, is a statement of the percentage of one company's total payphones operating in Florida. Disclosure of this information will not harm the company. The

information on page 101, lines 7-8, is interstate rate information provided by one of the companies. Rate information, even interstate rate information, is not confidential. Finally, the information on page 9, lines 1-3; page 10, lines 7-10; page 73, lines 32-35; page 74, lines 30-33; page 92, lines 18-25; page 93, line 3; page 99, lines 35-38; page 100, lines 10 and 12-15; page 107, lines 8-9; page 246, lines 7-9; page 247, lines 10-20; and page 286, line 44; is information related to the displacement of LEC and nonLEC payphones. I do not believe that disclosure of this information will harm the companies. Accordingly, this portion of FPTA's Request shall be denied.

Based on the foregoing, it is

ORDERED by Chairman J. Terry Deason, as Prehearing Officer, that the Florida Pay Telephone Association, Inc.'s September 16, 1992, Request for Specified Confidential Classification of Document No. 10713-92 is hereby granted in part and denied in part as set forth herein. 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 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. 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 Chairman J. Terry Deason, as Prehearing Officer, this 14th day of October, 1993.



J. TERRY DEASON, Chairman 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.

APPENDIX "A"

INDEX OF CONFIDENTIAL INFORMATION CONTAINED IN
DOCUMENT NO. 10713-92

<u>BELL</u> <u>INTERROGATORY</u> <u>NUMBER</u>	<u>RESPONDING</u> <u>COMPANY</u>	<u>PAGE</u> <u>NUMBER</u>	<u>LINE</u> <u>NUMBER(S)</u>	<u>REASON</u> <u>NUMBER</u>
5b	A	10	1-6	4
	B	27	4-8	4
	C	74	4-9	4
	E	100	4-8	4
	F	108	4-9	4
	H	247	4-9	4
	I	274	2-6	4
5d	A	10	7-10	4
	D	93	3	4
	E	100	10, 12-15	4
	G	129	3-7	4
	H	247	10-20	4
5f	E	101	7-8	3
7b	F	105	7-17	1
	H	241	1-33	1
	I	272	3-4	1
	J	283	1-22	1
		284	1-7	1
7c	A	2	1-13	1
		3	1-8	1
	C	72	7-8	1
	E	94	16-20	1
	F	105	18-21	1
	H	242	1-5	1
	I	272	7-8	1
	J	284	10-14	1

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8	A	3	9-22	2
		4	1-17	2
	C	72	9-15	2
	D	89	2-5, 8	2
	E	96	5-16	2
	F	105	22-23	2
	H	242	6-14	2
	I	272	9-10	2
	J	284	16-19, 21	2
	9	A	4	18-25
B		22	1-4	2
D		89	10-20	2
		90	1-3	2
E		96	18, 20-21, 24, 26-27, 31, 33, 34	2
		97	1	
H		243	1-5	2
I		272	11	2
J		284	22-24	2
10		A	5	1-4
	D	90	4-5	3
	E	97	2-7	3
	F	106	2	3
	H	243	7-9, 16-18	3
	J	284	25, 27-28	3
11	I	272	15-16	1
13	A	5	5-7	3
	C	73	11	3
	D	90	15	3
	E	97	2-7	3
	F	106	2	3
	H	244	2-4, 7-8	3
	I	273	1-2	3
	J	285	7-8	3
	16a	J	285	24, 26

16b	C	73	21	2
	D	91	1-2	2
	E	99	3-4	2
	F	106	14	2
	H	245	2-3	2
	I	273	3	2
	J	285	31	2
	16c	A	7	1-3
B		25	1-6	2
C		73	22	2
D		91	3	2
E		99	5-6	2
H		245	4-7	2
J		285	32	2
16e		A	8	1
	B	25	7	4
	C	73	24-25	4
	D	91	4	4
	E	99	10	4
	F	106	18	4
	J	286	1, 4	4
	18a	E	99	14-25
18b	J	286	25-27, 30, 32	4
18c	E	99	28-34	2
	J	286	37	2
18d	A	9	1-2	4
	C	73	32-33	4
	D	92	18-25	4
	E	99	36-37	4
	F	107	8-9	4
	H	246	7-8	4
	I	272	18	4
	J	286	44	4

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18e	A	9	3	4
	C	73	34-35	4
	E	99	38	4
	F	107	10	4
	H	246	9	4
	I	272	19	4

<u>FIRST REQUEST FOR PRODUCTION ITEM NUMBER</u>	<u>RESPONDING COMPANY</u>	<u>PAGE NUMBER(S)</u>	<u>LINE NUMBER(S)</u>	<u>REASON NUMBER</u>
1	A	21	all	5
	F	127	all	5
	H	268-271	all	5
2	A	13-20	all	1
	B	28-71	all	1
	C	75-88	all	1
3	E	95	1	1
		102-104	all	1
	F	110-126	all	1
	H	249-267	all	1
	I	275-282	all	1
7b & c, 10, 11	J	287-290	all	1

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<u>SECOND REQUEST FOR PRODUCTION ITEM NUMBER</u>	<u>RESPONDING COMPANY</u>	<u>PAGE NUMBER(S)</u>	<u>LINE NUMBER(S)</u>	<u>REASON NUMBER</u>
2	C	74	30, 32-33	6
	G	128	20-24	6
		129	22-26	6

NOTE: Confidentiality has been denied for the following information: page 9, lines 1-3; page 10, lines 7-10; page 73, lines 32-35; page 74, lines 30-33; page 92, lines 18-25; page 93, line 3; page 94, lines 16-20; page 95, line 1; page 99, lines 35-38; page 100, lines 10 and 12-15; page 101, lines 7-8; page 107, lines 8-9; page 246, lines 7-9; page 247, lines 10-20; and page 286, line 44.