

MEMORANDUM

November 23, 1998

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RECORDS AND
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (B. KEATING) ^{PK}

RE: DOCKET NO. 980733-TP - DISCOVERY RELATED TO STUDY ON FAIR AND REASONABLE RATES AND ON RELATIONSHIPS AMONG COSTS AND CHARGES ASSOCIATED WITH CERTAIN TELECOMMUNICATIONS SERVICES PROVIDED BY LOCAL EXCHANGE COMPANIES (LECS), AS REQUIRED BY CHAPTER 98-277, LAWS OF FLORIDA.

98-1576-LEO-TP

Attached is an ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION, with attachment, to be issued in the above referenced docket. (Number of pages in order - 6)

BK/anr
Attachment
cc: Division of Communications
I: 733b4.bk

MUST GO TODAY

ATTACHMENT(S) NOT ON-LINE

10 mail (LECS)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Discovery related to study on fair and reasonable rates and on relationships among costs and charges associated with certain telecommunications services provided by local exchange companies (LECs), as required by Chapter 98-277, Laws of Florida.

DOCKET NO. 980733-TL
ORDER NO. PSC-98-1576-CFO-TL
ISSUED: November 24, 1998

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION

In accordance with the new Chapter 98-277, General Laws of Florida, the Commission is required, among other things, to study and report to the Legislature, by February 15, 1999, its conclusions regarding the fair and reasonable rate for Florida residential basic local telecommunications service. In order to effectuate the timely completion of the required report, the Commission has established this matter as Special Project No. 980000A-SP, Fair and Reasonable Residential Basic Local Telecommunications Rates. In conjunction with this Special Project, this Docket has been opened for discovery purposes related to the project.

On September 29, 1998, BellSouth Telecommunications, Inc. (BellSouth) filed a request for confidential classification of Document No. 10747-98, which contains information provided in BellSouth's response to Citizens' First Request for Production of Documents, Request No. 4, which was also provided in response to Staff's First Request for Production of Documents. This information was provided to us on September 8, 1998, under a Notice of Intent to Request Confidential Treatment, Document No. 09797-98. BellSouth asserted that its response contains confidential information that should be exempt from Section 119.07(1), Florida Statutes. BellSouth argues that the information contained in this document is information, which, if disclosed, would impair its ability to compete. BellSouth asserts that it treats this information as confidential and that the information has not otherwise been disclosed. BellSouth asks, therefore, that this information be granted confidential treatment, in accordance with Rule 25-22.006, Florida Administrative Code.

Florida law presumes that documents submitted to governmental agencies shall be public records. The only exceptions to this

DOCUMENT NUMBER-DATE

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Fpsc-RECORDS/REPORTING

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. This presumption is based on the concept that government should operate in the "sunshine." Rule 25-22.006(4)(c), Florida Administrative Code, provides that it is the Company's burden to demonstrate that the 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 cause the Company or its ratepayers harm.

Specifically, BellSouth asserts that the information contained in this document includes information regarding the use of toll service by BellSouth's residential customers. BellSouth asserts that public disclosure of this information would give BellSouth's competitors an unfair advantage in the market by allowing them to benefit from BellSouth's research. BellSouth also asserts that this information would allow competitors to prepare marketing strategies to target BellSouth. Attached and incorporated into this Order as Attachment A is a list of the specific items, lines, and page numbers for which BellSouth seeks confidential treatment.

Section 364.183(3), Florida Statutes, states that proprietary confidential business information is information that

. . . 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, it appears that the information for which BellSouth seeks confidential classification is information that, if disclosed, would cause harm to the company or its ratepayers, because it would give competitors an unfair advantage over BellSouth. Thus, this information qualifies as proprietary business information under Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. It shall, therefore, be granted confidential treatment in accordance with those provisions.

ORDER NO. PSC-98-1576-CFO-TL
DOCKET NO. 980733-TL
PAGE 3

It is, therefore

ORDERED by Commissioner Susan F. Clark, that BellSouth Telecommunications, Inc.'s Request for Confidential Classification of Document No. 10747-98, and referenced Document No. 09797-98, is hereby granted. It is further

ORDERED that pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, any 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 will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 24th day of November, 1998.



SUSAN F. CLARK
Commissioner and Prehearing Officer

(S E A L)

BK

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.

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.

ORDER NO. PSC-98-1576-CFO-TL
DOCKET NO. 980733-TL
PAGE 5

ATTACHMENT A

BellSouth Telecommunications, Inc.
FPSC Docket 980733-TL
Staff's First Request for Production of
Documents (Citizens' 1st POD)
POD No. 4
Request for Confidential Classification
Page 1
9/29/98

**REQUEST FOR CONFIDENTIAL CLASSIFICATION Of Staff's First Request
For Production of Documents (Citizens' First Production of Documents,
POD No. 4), August 3, 1998 filed IN DOCKET NO. 980733-TL**

Explanation of Proprietary Information

1. The amount or frequency of toll service used by residential customers is proprietary confidential business information that is commercially sensitive information and should not be disclosed to the public. Disclosure of such confidential information could substantially harm the competitive position of BellSouth by assisting competitors in analyzing market opportunities, and in preparing marketing strategies to use in direct competition with BellSouth.

ORDER NO. PSC-98-1576-CFO-TL
DOCKET NO. 980733-TL
PAGE 6

BellSouth Telecommunications, Inc.
FPSC Docket 980733-TL
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Page 2
9/29/98

**REQUEST FOR CONFIDENTIAL CLASSIFICATION Of Staff's First Request
For Production of Documents (Citizens' First Production of Documents,
POD No. 4), August 3, 1998 filed IN DOCKET NO. 980733-TL**

POD No. 4

<u>PAGE NO.</u>	<u>LINE NOS./COL. NO.</u>	<u>REASON</u>
1	Total Accounts Column Total Messages Column Conversation MOU Column Sub-minute MOU Column Full Round MOU Column	1
2	Total Accounts Column Total Messages Column Conversation MOU Column Sub-minute MOU Column Full Round MOU Column	1
3	Messages Column Minutes Column	1
4	Columns A-N	1
5	Minutes Column	1
6	Toll Calls Per Acct Column Toll Calls Per Line Column Toll Mins Per Call Column	1