

MEMORANDUM

February 22, 1999

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RECORDS AND  
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (B. KEATING) *BK*

RE: DOCKET NO. 980733-TL - 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.

99-0378-CFO-TL

Attached is an ORDER GRANTING REQUESTS FOR CONFIDENTIAL CLASSIFICATION, to be issued in the above-referenced docket. (Number of pages in order - 5)

BK/anr  
Attachment  
cc: Division of Communications  
I: 980733b1.bk

**MUST GO TODAY**

*faxed -  
mailed - 40/3*

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-99-0378-CFO-TL  
ISSUED: February 22, 1999

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman  
J. TERRY DEASON  
SUSAN F. CLARK  
JULIA L. JOHNSON  
E. LEON JACOBS, JR.

ORDER GRANTING REQUESTS 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 Undocketed Special Project No. 980000A-SP, Fair and Reasonable Residential Basic Local Telecommunications Rates. In conjunction with this Special Project, this Docket was opened for discovery purposes related to the project.

On November 13, 1998, BellSouth Telecommunications, Inc. (BellSouth) filed a request for confidential treatment of Document No. 12745-98, which includes portions of the Attorney General's Final Comments filed in this proceeding and also information produced by BellSouth in response to the Commission Staff's data requests 1(b), (d), (e), (h), (j), 2(b), 3(b), and 4(b). BellSouth asserted that the information contained is confidential information that should be exempt from Section 119.07(1), Florida Statutes. BellSouth claimed that the information is actual unit cost information for discrete cost elements for the services that are being studied in this proceeding. On November 18, 1998, BellSouth filed a request for confidential treatment of Document

DOCUMENT NUMBER-DATE

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No. 12992-98 and referenced Document No. 12062-98, which contain BellSouth's response to Request No. 1 of Commission Staff's Second Requests for Production of Documents. BellSouth asserted that the information therein is revenue information for BellSouth by class of customer. BellSouth argues that the information contained in these documents 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. It is noted that the request for confidential treatment of Document No. 12745-98 was also filed in related Undocketed Special Project No. 980000A-SP. It is, however, appropriate that this request be addressed in this Docket.

Florida law presumes that documents submitted to governmental agencies shall be 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. 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, as it pertains to Document No. 12745-98, BellSouth seeks confidential treatment of the information in Attachment 2, page 6, which is the Unit Cost, Unit Contribution, Inservice Quantity, Total Cost, Total Contribution, and Percent Contribution. BellSouth also seeks confidential treatment of the information on page 5, the Rate Groups 1-12 all Monthly Cost-Loop, NTS & Usage, and on page 10, the Cost, Minutes & Calls per Month. BellSouth asserts that the information contained in this Document is actual unit cost information for discrete cost elements for the services being studied in this proceeding. BellSouth states that these costs reflect the Total Service Long Run Incremental Cost of providing these services on a going-forward basis. BellSouth claims that public disclosure of this information would give competitors an unfair advantage, because they would know the price or rate below which BellSouth would not be able to provide a service. BellSouth believes that this information could be used by

competitors to target BellSouth and would allow them to develop business plans to relating the service identified. BellSouth states that it considers this information to be valuable, confidential information, and it is treated as a trade secret by BellSouth.

As it pertains to Document No. 12992-98 and referenced Document No. 12062-98, BellSouth seeks confidential treatment of the information in Chart 1, Lines 4, 6-9, 11-14, and 19; in Chart 2, lines 21 B-D, 22 B-D, 23 B-D, 25 C-E, and 26 C-E; in Chart 3, lines 28 B-D, 29 B-D, 30 B-D, 32 C-E, and 33 C-E; in Chart 4a, lines 35-41; in Chart 4b, lines 43-49 and lines 50 B-F; in chart 4c, lines 51-57 and lines 58 B-F; in chart 5a, lines 59-65; in Chart 5b, lines 67-73 and lines 74 B-E; and in Chart 5c, lines 75-81 and lines 82 B-E. BellSouth asserts that the information for which it requests confidential treatment is revenue information by class of customer. BellSouth claims the this information is disaggregated to a level at which the release of the information could substantially harm BellSouth's competitive position by giving competitors information that would allow them to prepare market strategies and business plans targeted at BellSouth. BellSouth states that it treats this information as confidential. Thus, BellSouth argues that this information should be granted confidential treatment in accordance with Section 364.183(3)(e), Florida Statutes.

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 disclosure would violate Section 364.24, Florida Statutes. Thus, this information qualifies



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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.

It is, therefore

ORDERED by Commissioner Susan F. Clark, that the November 13, 1998, Request for Confidential Classification of Document No. 12745-98, filed by BellSouth Telecommunications, Inc. is hereby granted. It is further

ORDERED that the November 18, 1998, Request for Confidential Classification of Document No. 12992-98 and referenced Document No. 12062-98, filed by BellSouth Telecommunications, Inc. is 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 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 Commissioner Susan F. Clark, as Prehearing Officer, this 22nd Day of February, 1999.

  
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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.