

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of ICG Telecom
Group, Inc. for arbitration of
unresolved issues in
interconnection negotiations
with BellSouth
Telecommunications, Inc.

DOCKET NO. 990691-TP
ORDER NO. PSC-99-2266-CFO-TP
ISSUED: November 18, 1999

ORDER GRANTING REQUEST FOR
CONFIDENTIAL TREATMENT OF DOCUMENT NOS. 10050-99
(CROSS-REFERENCE 09079-99)

On August 23, 1999, BellSouth Telecommunications, Inc. (BST) filed a request for Confidential Classification of information contained in the direct testimony of BST witness, D. Daonne Caldwell. BST asserts that witness Caldwell's testimony includes vendor-specific pricing information regarding contracts for goods and services. The disclosure of this information would provide BST's competitors with an advantage in that they would know the price or rate below which BST could not provide service. BST asserts that it treats this information as confidential and that this information has not otherwise been disclosed. BST further asserts that public disclosure of this information could harm BST's business operations, and thus, BST's ability to compete.

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.

Upon consideration, it appears that the disclosure of this information could have a detrimental effect on BST's competitive interests and, therefore, BST's business operations.

DOCUMENT NUMBER-DATE

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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 BST seeks confidential classification is information that, if disclosed, would cause harm to the company or its ratepayers because disclosure would harm BST's business operations by impairing its ability to compete. 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.

Based on the foregoing, it is therefore


ORDERED by Susan F. Clark, as Prehearing Officer, that the request by BellSouth Telecommunications, Inc. For confidential treatment of information in Document Nos. 10050-99 (cross-referenced 09079-99) is granted.

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.

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By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 18th day of November, 1999.



SUSAN F. CLARK
Commissioner and Prehearing Officer

(S E A L)

CLF

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.