

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Notice of adoption of existing interconnection, unbundling, resale, and collocation agreement between BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast and Image Access, Inc. d/b/a NewPhone, Inc. by Express Phone Service, Inc.

DOCKET NO. 110087-TP
ORDER NO. PSC-12-0216-CFO-TP
ISSUED: April 23, 2012

ORDER GRANTING AT&T FLORIDA'S REQUEST FOR SPECIFIED CONFIDENTIAL CLASSIFICATION OF DOCUMENT NO. 01319-12 (X-REF DOCUMENT NO. 00863-12)

On February 14, 2012, pursuant to Rule 25-22.006, Florida Administrative Code (F.A.C.), BellSouth Telecommunications, Inc. d/b/a AT&T Florida (AT&T Florida) filed its Supplemental Response to Express Phone Service Inc.'s (Express Phone) First Request for Production of Documents, Nos. 2,3,7 and 8. Concurrently, pursuant to Section 364.183, Florida Statutes (F.S.) and Rule 25-006, F.A.C., AT&T Florida filed a Notice of Intent to Request Confidential Classification for Response Nos. 2, 3, 7 and 8. On March 6, 2012, AT&T Florida filed a Request for Specified Confidential Classification (Request) for information contained in its Supplement Response to Express Phone's First Request for Production of Documents, Nos. 2, 3, 7 and 8. AT&T Florida asserts that Document No. 01319-12 (x-ref DN 00863-12) is intended to be proprietary, is treated as proprietary, and has not been publicly disclosed. AT&T Florida has provided redacted copies of the documents. Attachment A, attached hereto and incorporated herein, contains a detailed justification of the confidentiality of the information at issue. AT&T Florida requests that the Commission grant confidential classification for the document for a period of 18 months from the date of the issuance of this Order, pursuant to Section 364.183, F.S.

In its Request for Confidential Classification, AT&T Florida states that Response Nos. 2, 3, 7 and 8 consist of confidential business information related to AT&T Florida policies and policy development information. AT&T Florida also states that Section 364.183(3)(e), F.S. provides that "proprietary confidential business information" includes "information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information." AT&T Florida therefore concludes that this information should be classified as proprietary, confidential business information and pursuant to Section 364.183(3)(e), F.S.; is exempt from the Open Records Act; and should be granted confidential classification.

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

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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.

Section 364.183 (3), Florida Statutes, in pertinent part, provides:

The term "proprietary confidential business information" means information, regardless of form or characteristics, which 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.

Pursuant to Section 364.183 (3)(e) F.S. it appears that the material described herein is proprietary confidential business information and should be granted confidential status. As such, AT&T Florida's Request for Specified Confidential Classification of certain information contained in its Supplemental Response to Express Phone's First Request for Production of Documents, (Nos.2, 3, 7 and 8) is hereby granted.

Based on the foregoing, it is

ORDERED by Commissioner Eduardo E. Balbis, as Prehearing Officer, that AT&T Florida's Request for Specified Confidential Classification for information contained Response Nos.2, 3, 7 and 8, Document No. 01319-12 (x-ref DN 00863-12), is hereby granted. It is further

ORDERED that the information in Document No. 01319-12 (x-ref DN 00863-12) for which confidential classification has been granted shall remain protected from disclosure for a period of 18 months from the date of issuance of this Order. At the conclusion of the 18-month period, the confidential information will no longer be exempt from Section 119.07(1), F.S., unless AT&T Florida or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information. It is further

ORDERED that this Order shall be the only notification by the Commission to the parties of the date of declassification of the materials discussed herein.

By ORDER of Commissioner Eduardo E. Balbis, as Prehearing Officer, this 23rd day of April, 2012.



EDUARDO E. BALBIS
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 25-22.0376, Florida Administrative Code; or (2) 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 Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, 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.

Request for Confidential Classification of AT&T Florida's Supplemental Response to Express Phone Service Inc.'s First Request for Production of Documents, No. 2, 3, 7 and 8. Filed March 6, 2012 Explanation of Proprietary Information

1. This information contains confidential proprietary business information related to the competitive interests of AT&T Florida that is proprietary to AT&T Florida. Specifically, this information contains internal company policies and policy development information the disclosure of which will give AT&T Florida's competitors a competitive advantage and harm the internal operations of AT&T Florida. This information is not publically available. Consequently this information should be classified as proprietary, confidential, business information pursuant to Section 364.183(3)(e), F.S.

Document	Location	Reason:
Supplemental Response to Request No.2	Page 1, lines 6-37 Page 2, lines 4-26 Page 3, lines 6-39 Page 4, lines 4-22 Page 6, lines 3-29	1
Supplemental Response to Request Now. 3, 7,and 8	Page 1, lines 3-40 Page 3, lines 3-29 Page 5, lines 3-32 Page 7, lines 3-22 Page 10, lines 3-40 Page 14, lines 3-33 Page 16, lines 3-25	1