

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Florida
Competitive Carriers Association
against BellSouth
Telecommunications, Inc.
regarding BellSouth's practice
of refusing to provide
FastAccess Internet Service to
customers who receive voice
service from a competitive voice
provider, and request for
expedited relief.

DOCKET NO. 020507-TL
ORDER NO. PSC-03-0444-CFO-TL
ISSUED: April 1, 2003

ORDER GRANTING BELL SOUTH'S REQUEST FOR SPECIFIED CONFIDENTIAL
CLASSIFICATION FOR DOCUMENT NO. 01513-03
(X-REF. 00739-03)

On June 12, 2002, the Florida Competitive Carriers Association (FCCA) filed a Complaint against BellSouth Telecommunications, Inc. (BellSouth) and a Request for Expedited Relief seeking relief from BellSouth's practice of refusing to provide its FastAccess service to customers who receive voice service from an Alternative Local Exchange Carrier (ALEC). By Order No. PSC-02-0935-PCO-TL, issued July 12, 2002, the request for expedited relief was denied.

On February 13, 2003, BellSouth filed its Request for Specified Confidential Classification for its Response to Request for Production No. 2 of FCCA's Second Request for Production, Document No. 01513-03(x-ref. 00739-03). Attachment A, attached hereto and incorporated herein, contains a detailed justification of the confidentiality of the information regarding BellSouth's Response. BellSouth contends that it filed its request because the information contains competitive business information that it considers confidential and proprietary. BellSouth states it treats the information as private. Further, BellSouth asserts that this information has not been generally disclosed.

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

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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.

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.

Based on the definition of proprietary confidential business information in Section 364.183(3), Florida Statutes, it appears that the material described herein is proprietary business information in accordance with Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. Disclosure of this information would give its competitors an artificial competitive advantage, allowing them to successfully compete against BellSouth without the usual market trial and error. As such, BellSouth's Request for Specified Confidential Classification of Document No. 01513-03 (x-ref. 00739-03) is hereby granted.

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Based on the foregoing, it is

ORDERED by Commissioner Braulio L. Baez, as Prehearing Officer, that BellSouth Telecommunications, Inc.'s Request for Specified Confidential Classification of Document No. 01513-03 (x-ref. 00739-03), as set forth in Attachment A, is hereby granted and incorporated by reference into this Order. 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 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 Braulio L. Baez, as Prehearing Officer, this 1st Day of April, 2003.

 for Commissioner Braulio L. Baez

BRAULIO L. BAEZ
Commissioner and Prehearing Officer

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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, 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 the Commission Clerk and Administrative Services, 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.

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ATTACHMENT A

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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELL SOUTH'S RESPONSE
TO FCCA'S 2ND REQUEST FOR PRODUCTION OF DOCUMENTS, ITEM NO. 2
FILED JANUARY 23, 2003, IN FLORIDA DOCKET NO. 020507-TL**

Explanation of Proprietary Information

1. This information contains competitive business information. This information is valuable, it is used by BellSouth in conducting its business and BellSouth strives to keep it secret. Therefore, such information is trade secret which should be classified as proprietary, confidential business information, exempt from the Open Records Act.

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POD NO. 2

Location

Reason

Entire Document

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