

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Implementation of Florida)	DOCKET NO. 910496-TP
Telecommunications Access System)	ORDER NO. 25680
Act of 1991.)	ISSUED: 2/3/92
_____)		

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman*
 SUSAN F. CLARK
 J. TERRY DEASON
 BETTY EASLEY

ORDER GRANTING CONFIDENTIALITY UPON RECONSIDERATION

BY THE COMMISSION:

AT&T Communications of the Southern States, Inc. ("AT&T") sought specified confidential classification for some of the information submitted in AT&T's response (the "Response") to the Florida Public Service Commission's Request for Proposals ("RFP") for Telecommunication Relay Service ("TRS"). In Order No. 25435, issued December 3, 1991, the Prehearing Officer granted the petition in part and denied it in part. On December 13, 1991, AT&T pursuant to Rule 25-22.038(2), requested limited reconsideration of the Order No. 25435.

AT&T sought reconsideration of the order only to the limited extent that it denies confidential classification of the following information:

Job descriptions (p. 149, except for the first three sentences; pp. 150, 154, 155, 157, 162, 165; pp. 151, 152, 164, except for the major headings.

In support of its Motion, AT&T urged that such information meets the confidentiality requirement of Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code.

The "Job Description" information details the specific functions and minimum qualifications of personnel who provide TRS. Additionally, the information reveals certain AT&T employee staffing levels.

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AT&T states that the FPSC's description of the information as "broad" is erroneous. AT&T adds, "if competitors knew the specific functions and minimum qualifications of AT&T personnel who provide TRS, those competitors could establish the same standards for their own personnel, and whatever competitive advantage AT&T might have had by adhering to such standards could be lost." Section 364.183(3)(e), Florida Statutes, expressly protects confidential treatment of "information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information."

The telecommunications access system relay service for the deaf and hard of hearing is part of the nonregulated competitive services offered by the company. Thus, it appears to fit squarely within that portion of the statute. In addition, the situation of the FPSC receiving competitive proposals from regulated companies for a contractual award is unusual. Finally, the fact that AT&T is currently the leader in the field as to experience with the relay service in other states somewhat separates out the company's proposal from those filed by the other companies.

AT&T also alleges that disclosure of the information would impair AT&T's efforts in other states to contract for the provision of TRS on favorable terms. Such information is protected in Section 364.183(3)(d), Florida Statutes. Several other jurisdictions are considering or soon will be considering TRS. AT&T will be competing with other carriers, and AT&T states that those carriers could use the "Job Description" information in preparing their bid responses to AT&T's competitive disadvantage. Also, the information, in combination with other nonclassified information in AT&T's response could be used to make a fairly accurate estimate of AT&T prices in future bids.

Subsequent to AT&T's initial request for confidential treatment in this matter and subsequent to AT&T's Motion for Reconsideration, the FPSC issued Order No. 25483 denying Southern Bell Telephone and Telegraph Company's Motion for Reconsideration. In that Order, the FPSC clearly stated the standard for review of Motions for Reconsiderations on a going-forward basis. The Order requires that the company must establish that the Prehearing Officer made an error in fact or law in his decisions that requires that the full Commission reconsider his decision. Diamond Cab Co. of Miami v. King, 146 So.2d 889 (Fla. 1962). At the January 14

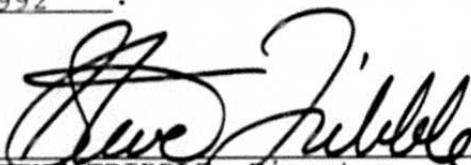
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Agenda, the company addressed this standard although its filing was prior to the above-described Southern Bell order.

In consideration of the above, it is, therefore

ORDERED by the Florida Public Service Commission that the Motion for Reconsideration is granted, as stated above.

By ORDER of the Florida Public Service Commission, this 3rd
day of FEBRUARY, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

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*Chairman Thomas M. Beard dissented.

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearings 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,

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gas or telephone utility, or the First District Court of Appeal, in the case of a water or sewer 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.