

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for arbitration of open issues resulting from interconnection negotiations with Verizon Florida Inc. by DIECA Communications, Inc. d/b/a Covad Communications Company.	DOCKET NO. 020960-TP ORDER NO. PSC-04-0153-CFO-TP ISSUED: February 16, 2004
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ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION  
OF SPECIFIED PORTIONS OF DOCUMENT NO. 04977-03

Pursuant to a Petition by DIECA Communications, Inc. d/b/a Covad Communications Company (Covad) for arbitration of unresolved issues in an agreement with Verizon Florida Inc. (Verizon), this matter was set for an administrative hearing by Order No. PSC-02-1589-PCO-TP, issued November 15, 2002.

On June 4, 2003, Covad filed its Request for Specified Confidential Classification for its response to Production Request No. 1 of Staff's First Request for Production of Documents. Attachment A contains a specific description of this information.

Covad contends this information is confidential, proprietary information pursuant to Rule 25-22.006(3)(a), Florida Administrative Code. Covad states that its response to Production Request No. 1 of Staff's First Request for Production of Documents contains a history of Covad UNE T-1 orders placed with Verizon Florida. Covad considers this information to be confidential proprietary business information. Covad claims that disclosure of this information would impair Covad's competitive interest in the marketplace and has not been generally disclosed. Therefore, Covad requests that the information be classified as confidential, proprietary business information pursuant to Sections 364.24 and 364.183, Florida Statutes, and be held exempt from the public disclosure requirements of Section 119.07, Florida Statutes.

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.

DOCUMENT NUMBER-DATE

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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 provide competitors for Covad's customers with an unfair advantage. As such, Covad's Request for Confidential Classification of the specified portions of Document No. 04997-03 is hereby granted.

Based on the foregoing, it is

ORDERED by J. Terry Deason, as Prehearing Officer, that DIECA Communications, Inc. d/b/a Covad Communications Company's Request for Confidential Classification of the specified portions of Document No. 04997-03 is hereby granted. 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.

ORDER NO. PSC-04-0153-CFO-TP  
DOCKET NO. 020960-TP  
PAGE 3

By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 16th day of  
February, 2004.

  
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J. TERRY DEASON  
Commissioner and Prehearing Officer

( S E A L )

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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 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.

**ATTACHMENT A**

**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF COVAD'S RESPONSE TO  
STAFF PRODUCTION REQUEST NO. 1, INCLUDED AS PART OF LATE-FILED  
EXHIBIT NO. 11  
DOCKET NO. 020960-TP**

**Explanation of Proprietary Information**

1. The information provided in Covad's response to Staff Production Request No. 1, included as part of Late-filed Exhibit No. 11, contains a history of Covad UNE T-1 orders placed with Verizon Florida that is confidential, proprietary business information. This information is related to Covad's ongoing business affairs and can be used by Covad's competitors to impair its competitive interests. Section 364.183, Florida Statutes, allows for an exemption from the disclosure requirements of section 119.07, Florida Statutes, when disclosure would "impair the competitive business of the provider of the information." Therefore, the information should be shielded from disclosure pursuant to section 119.07, Florida Statutes and section 24(a), Art. 1 of the State Constitution.

<u>Document</u>	<u>Lines</u>	<u>Reason</u>
Covad's response to Staff Production Request No. 1, included as part of Late-filed Exhibit No. 11	1-15	1