

NANCY B. WHITE
General Attorney

Southern Bell Telephone
and Telegraph Company
Suite 400
150 South Monroe Street
Tallahassee, Florida 32301
(404) 529-5387

February 4, 1993

Mr. Steve C. Tribble
Director, Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32301

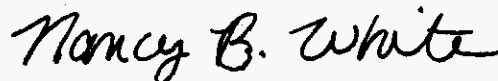
RE: Docket No. 920260-TL

Dear Mr. Tribble:

Enclosed are an original and fifteen copies of Southern Bell Telephone and Telegraph Company's Request for Confidential Classification and Motion for a Permanent Protective Order. Please file this document in the above-captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served on the parties shown on the attached Certificate of Service.

Sincerely,



Nancy B. White

Enclosures

cc: All Parties of Record
A. M. Lombardo
H. R. Anthony
R. D. Lackey

DOCUMENT NUMBER-DATE
01404 FEB-48
FPC-RECORDS/REPORTING

CERTIFICATE OF SERVICE
Docket No. 920260-TL

I HEREBY CERTIFY that a copy of the foregoing has been furnished
by United States Mail this 4th day of February, 1993 to:

Robin Norton
Division of Communications
Florida Public Svc Commission
101 East Gaines Street
Tallahassee, FL 32399-0866

Angela Green
Division of Legal Services
Florida Public Svc Commission
101 East Gaines Street
Tallahassee, FL 32399-0863

Joseph A. McGlothlin
Vicki Gordon Kaufman
McWhirter, Grandoff & Reeves
716 - 315 S. Calhoun Street
Tallahassee, Florida 32301
atty for FIXCA

Patrick K. Wiggins
Wiggins & Villacorta, P.A.
Post Office Drawer 1657
Tallahassee, Florida 32302
atty for Intermedia

Joseph Gillan
J. P. Gillan and Associates
Post Office Box 541038
Orlando, Florida 32854-1038

Charles J. Beck
Deputy Public Counsel
Office of the Public Counsel
Room 812, 111 W. Madison Street
Tallahassee, FL 32399-1400

Floyd R. Self, Esq.
Messer, Vickers, Caparello,
Madsen, Lewis, & Metz, PA
Post Office Box 1876
Tallahassee, FL 32302
attys for McCaw Cellular

Michael J. Henry
MCI Telecommunications Corp.
MCI Center
Three Ravinia Drive
Atlanta, Georgia 30346-2102

Richard D. Melson
Hopping Boyd Green & Sams
Post Office Box 6526
Tallahassee, Florida 32314
atty for MCI

Rick Wright
Regulatory Analyst
Division of Audit and Finance
Florida Public Svc Commission
101 East Gaines Street
Tallahassee, FL 32399-0865

Peter M. Dunbar
Haben, Culpepper, Dunbar
& French, P.A.
Post Office Box 10095
Tallahassee, FL 32301
atty for FCTA

Chanthina R. Bryant
Sprint
3065 Cumberland Circle
Atlanta, GA 30339

Michael W. Tye
AT&T Communications of the
Southern States, Inc.
Suite 1410
106 East College Avenue
Tallahassee, Florida 32301

Dan B. Hendrickson
Post Office Box 1201
Tallahassee, FL 32302
atty for FCAN

Benjamin H. Dickens, Jr.
Blooston, Mordkofsky, Jackson,
& Dickens
2120 L Street, N.W.
Washington, DC 20037

Monte Belote
Florida Consumer Action Network
4100 W. Kennedy Blvd. #128
Tampa, FL 33609

Michael B. Twomey
Assistant Attorney General
Department of Legal Affairs
Room 1603, The Capitol
Tallahassee, FL 32399-1050

Florida Pay Telephone
Association, Inc.
c/o Mr. Lance C. Norris
President
202 - 8130 Baymeadows Cir. West
Jacksonville, FL 32256

Mr. Cecil O. Simpson
General Attorney
Mr. Peter Q. Nyce, Jr.
General Attorney
Regulatory Law Office
Advocate General
Department of the Army
901 North Stuart Street
Arlington VA 22203-1837

Bill L. Bryant, Jr., Esq.
Foley & Lardner
Suite 450
215 South Monroe Street
Tallahassee, FL 32302-0508

Douglas S. Metcalf (Ad Hoc)
Communications Consultants, Inc.
P.O. Box 1148
Winter Park, FL 32790-1148

C. Everett Boyd, Jr.
Ervin, Varn, Jacobs, Odom &
Ervin
305 South Gadsen Street
Tallahassee, FL 32302
atty for Sprint

Laura L. Wilson, Esq.
Messer, Vickers, Caparello,
Madsen, Lewis & Metz, PA
Post Office Box 1876
Tallahassee, FL 32302
atty for FPTA

Mr. Michael Fannon
Cellular One
2735 Captial Circle, N.E.
Tallahassee, FL 32308

Nancy B. White

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Comprehensive Review of)
the Revenue Requirements and Rate) Docket No. 920260-TL
Stabilization Plan of Southern)
Bell Telephone and Telegraph) Filed: February 4, 1993
Company (Formerly FPSC Docket)
Number 880069-TL))
_____)

SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
AND MOTION FOR A PERMANENT PROTECTIVE ORDER

COMES NOW BellSouth Telecommunications, Inc., d/b/a Southern Bell Telephone and Telegraph Company ("Southern Bell" or "Company"), pursuant to Rule 25-22.006, Florida Administrative Code, and Rules 1.280(c), Florida Rules of Civil Procedure, and files its Request for Confidential Classification and Motion for a Permanent Protective Order regarding portions of and exhibits attached to the testimony of R. Earl Poucher and Mark N. Cooper, witnesses for the Office of Public Counsel ("Public Counsel") and Michael R. Maloy, witness for the Attorney General's office, filed on November 16, 1992. In support of its Request and Motion, Southern Bell shows the following:

1. During the course of this proceeding, Public Counsel has conducted extensive discovery of Southern Bell. Documents have been delivered to Public Counsel in response to Public Counsel's requests for production of documents and interrogatories. Those documents were the subject of Motions for a Temporary Protective Order filed herein and consequently are currently treated by Public Counsel as confidential materials.

2. Southern Bell has also provided the Attorney General and the Statewide Prosecutor with documents and information for

their use in the ongoing criminal investigation. In turn, the Attorney General and the Statewide Prosecutor interviewed Southern Bell employees in connection with this investigation.

3. Public Counsel and the Attorney General have used certain documents and information in this proceeding as part of the testimony and exhibits of Public Counsel's witnesses, R. Earl Poucher and Mark N. Cooper, and the Attorney General's witness, Michael R. Maloy. Therefore, Southern Bell herewith files its Request for Confidential Classification and its Motion for Permanent Protective Order for the information contained in the testimony and exhibits of the witnesses for Public Counsel and the Attorney General. Southern Bell has appended to this Request for Confidential Classification as Attachment "A" a listing of the location in the documents of the information designated by Southern Bell as confidential, together with a statement indicating why the material should be treated as confidential proprietary business information.

3. Appended hereto in an envelope designated as Attachment "B" are two copies of the documents with the confidential information deleted. Appended hereto in an envelope designated as Attachment "C" is a copy of the documents with the proprietary information highlighted.

4. The information deemed to be confidential by Southern Bell and identified in Attachment "A" contains several categories of proprietary information, each of which will be discussed herein.

5. The first category concerns customer-specific information, including name, address, and telephone number of subscribers. This information is entitled to confidential classification, and the Commission has consistently protected such customer-specific information from public disclosure. Moreover, § 119.07(3)(w) specifically provides that information such as customers' names, addresses, and telephone numbers are exempt from the inspection and examination provisions of the Public Record Act.

6. The second category of information concerns employee personnel information, specifically, employee names associated with but not limited to discipline and witness statements. This information is clearly confidential and proprietary under Florida Statutes, § 364.183(f), which provides that "proprietary confidential business information" includes "employee personnel information unrelated to compensation, duties, qualifications, or responsibilities."

7. The four areas of employee personnel information that are not, per se, confidential pursuant to § 364.183(f), Florida Statutes, are compensation, duties, qualifications, and responsibilities of an employee. A common sense reading of this list, as well as a review of the definitions of these items as contained in Webster's Seventh New Collegiate Dictionary demonstrate that the names of employees in connection with discipline do not fit any of the exceptions and thus are, per se, confidential under § 364.183(f), Florida Statutes.

8. A review of these terms, in the context of § 364.183(f), Florida Statutes, reveals their meaning.

"Compensation" is the amount of money or other value that an employee is paid to perform his or her job duties. "Duties" are the particular acts an employee is expected to perform as a part of his or her job. "Qualifications" are the skills, knowledge, and abilities needed to perform a particular job. Finally, "responsibilities" are those things that an employee is obliged to do as part of his or her job. These meanings are confirmed by the dictionary definition of these words. Webster's definitions of these terms are as follow:

- A. Compensation - payment, wages.
- B. Duty - the action required by one's position or occupation.
- C. Qualification - something that qualifies; a condition that must be complied with.
- D. Responsibility - the quality or state of being responsible.

Even a cursory reading of these commonly-understood definitions makes it clear that the disciplining of an employee is not encompassed within any of the concepts or definitions set forth above.

9. Thus, the names of the employees who have been disciplined or interviewed do not relate to their compensation, duties, qualifications, or responsibilities. Instead, the name of an employee who has been disciplined or interviewed is a personnel-related matter, the disclosure of which would be highly damaging to the reputation of the employee in the community at

large. Certainly, § 364.183, Florida Statutes, was not intended to require such disclosure.

10. If this Commission were to interpret § 364.183, Florida Statutes, to require public disclosure of any employee information that bears a relationship, even of an indirect or tangential nature, to an employee's job responsibilities, wages, or qualifications, then there would be literally nothing protected from disclosure. Put another way, a broad reading of the exceptions to 364.183(f), Florida Statutes, would reduce the public disclosure exemption for employee information to the point of nonexistence. Obviously, if the legislature had intended for this statute to be read in a way that would make the employee information exemption uniformly unavailable and essentially pointless, then it would simply not have bothered to create the exemption in the first place.

11. In this particular case, though, there is an equally compelling reason that these documents should be treated as confidential. Section 364.183, Florida Statutes, provides that in addition to the specifically identified types of documents that are confidential, such as those enumerated in subsection (f), any document that, if disclosed, "would cause harm to the ratepayers or the person's or company's business operations...is also entitled to protection." The potential for harm to Southern Bell's business operations that would necessarily result from disclosure of the subject information is both obvious and striking.

12. The discipline of Southern Bell's employees in this matter was the result of a thorough, privileged internal investigation that was designed to determine whether or not a repair reporting problem existed. It was never contemplated by either the Company or the individuals involved that, in the aftermath of this effort by Southern Bell to police itself, there would be a resulting forced public disclosure that would subject the disciplined employees to the additional punishment of public opprobrium and scorn. In effect, the public disclosure of the names of the disciplined employees would convert internal discipline into an inappropriate and inflammatory "public shaming" of these employees.

13. Inasmuch as this docket already has resulted in widespread publicity as to Southern Bell, it is probable that the public disclosure of the identities of these employees would also be widely published. This disclosure is particularly unnecessary where, as here, the public will have access to all disciplinary information, except for the names of the employees themselves. Thus, for example, the number of employees disciplined, the stated basis for the discipline and the type of discipline would all be publicly available.

14. The public disclosure of the names of disciplined employees would have a significantly deleterious effect on morale that, in turn, would serve as a practical impediment to the functioning of the Company. Those who have cooperated with the efforts of the company to police itself have done so on the well-

founded assumption that the information would be handled discreetly and appropriately, and that it would result in a level of discipline, if any, that was warranted. If Southern Bell is now forced to reveal publicly the names of the employees disciplined, then the employees who have cooperated will no doubt feel that their good faith efforts to address any problems that may have occurred have been betrayed. It is easy to see how this sense of betrayal could result in morale problems that would be both widespread and severe.

15. Moreover, public disclosure could well result not only in general morale problems, but also in a general employee wariness and concern that would make future attempts to remedy any problems that may arise far more difficult. Southern Bell can only effectively investigate an internal problem with the cooperation of its employees. If the lesson to be learned by employees in this particular instance is that any cooperation may result in exposure of disciplined employees to the additional ordeal of public ridicule, then the prospect of obtaining adequate employee cooperation to address effectively any possible future problems diminishes significantly.

16. Further, the managers of Southern Bell who are charged with the duty of administering employee discipline will unquestionably be more hesitant to do so if they know that any employee disciplined for even the most minor infraction may later have that discipline publicly disclosed and widely published.

17. Finally, to reveal this information publicly would serve no purpose whatsoever. Arguably, if disclosure of the identities of these employees served some public purpose, or if this disclosure were necessary for this Commission to deal thoroughly with the issues of this docket, then a balancing test might be necessary. That is, the Commission would need to balance the benefits to be derived from public disclosure against the detriment to the Company and the employees. In this case, however, public disclosure will result in no benefit whatsoever.

18. Another category of proprietary information sought to be protected herein concerns proprietary confidential business information relating to Southern Bell's overall strategic views and planning. This information is highly proprietary inasmuch as it discloses Southern Bell's competitive and other environmental assessments and analyses as well as possible Company responses as a result of consideration of such analyses. This information is entitled to confidential classification on the basis that it is information relating to competitive interests, the disclosure of which would impair Southern Bell's competitive business if publicly disclosed. Section 364.183(3), Florida Statutes, specifically provides that such information is proprietary confidential business information. If Southern Bell's competitors had access to this information, they could construct reactive plans to impede or even thwart Southern Bell's competitive initiatives. Southern Bell developed this information for use in strategically planning its business

operations, and the subject information is not shared outside of the Company in the form and to the extent contained in these documents. If Southern Bell's competitors had public access to this information, their marketing efforts could easily be focused and specifically designed and targeted to take full advantage of Southern Bell's assessment of competitive alternatives. Any advantage gained through such use of Southern Bell's information would cause a concomitant adverse effect on the Company's business. Moreover, this type of information is not made public by Southern Bell's competitors, nor is it shared at all in competitive arenas. Consequently, Southern Bell's competitive strategies are equally entitled to be protected from public disclosure.

19. Information concerning inside wire is also included in the aforementioned testimony. Although Commissioner Clark ordered on January 29, 1993 at the Prehearing Conference, that the portions of this testimony dealing with subjects other than cost allocations for inside wire be stricken, out of an abundance of caution, Southern Bell has included those portions in this request. This information contains competitively sensitive information relating to the unregulated business of inside wire. As such, the information contained therein is proprietary confidential business information.

20. The inside wire business is a competitive business, and companies participating in that market do not typically share their capital investment and profit margins with their

competitors. Section 364.183(3)(e), Florida Statutes, specifically includes "information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information" as proprietary confidential business information. Knowledge of discrete elements in a competitor's cost structure, such as current investment costs in the context of the inside wire business, would make it easier to estimate the competitor's overall costs which must be covered through advertising revenues. Consequently, knowledge of a competitor's costs could help in setting strategic advertising rates in certain markets subject to the greatest competition.

21. Some of the information contained in Mr. Poucher's testimony and exhibits contains information covered by the attorney-client or attorney-work product privilege which was inadvertently released to Public Counsel. Communications between attorneys and their clients are shielded from discovery under Rule 1.280(b)(i) of the Florida Rules of Civil Procedure. This rule is codified at § 90-502, Florida Statutes. The attorney-client privilege applies to corporations. Upjohn v. United States, 449 U.S. 383, 101 S.Ct. 677, 66 L.Ed.2d 584 (1981). The elements of the attorney-client privilege require that (1) the communication must be made in confidence, (2) by one who is a client, (3) seeking legal advice from an attorney, and (4) the communication is requested to be kept confidential and such

privilege has not been waived. International Telephone & Telegraph Corp., 60 F.R.D. 177, 184-85 (M.D.Fla. 1973).

22. The communication in issue involves legal advice sought from and rendered by counsel with regard to the Company's compliance with the Florida Public Service Commission's ("FPSC") rules and regulations. The communications were made in confidence and should be protected from disclosure.

23. In the alternative, Southern Bell submits that the information constitutes the work product of attorneys and agents for Southern Bell which should be shielded from discovery under Rule 1.280(b)(1), Florida Rules of Civil Procedure. See also, Karch v. MacKay, 453 So.2d 452, 453 (Fla. 4th D.C.A. 1984). In Surf Drugs, Inc. v. Vermette, 236 So.2d 108, 113 (Fla. 1970), the Supreme Court of Florida held attorney work product to include: interviews, statements, memoranda, correspondence, briefs, personal impressions, and investigative materials prepared in anticipation of litigation by an attorney or an employee investigator at the direction of a party. Hickman v. Taylor, 329 U.S. 495, 67 S.Ct. 385, 91 L.Ed. 451 (1947). A document is prepared in anticipation of litigation if it is not one that would otherwise be required to be prepared. See Reynolds v. Hofmann, 305 So.2d 294 (Fla. 3d D.C.A. 1974). It does not matter whether the product is the creation of a party, agent, or attorney where the subject matter of the discovery is the work product of the adverse party. Atlantic Coast Line R.R. v. Allen, 40 So.2d 115 (Fla. 1949).

24. Florida Rules of Civil Procedure, Rule 1.280(b)(2) states that the adverse party may not obtain material subject to the attorney work product privilege without a showing of need and an inability to obtain the materials from other sources without undue hardship. See Alachua General Hospital, Inc. v. Zimmer USA, Inc., 403 So.2d 1087 (Fla. 1st D.C.A. 1981).

25. This Commission has broad discretion under § 364.183(3), Florida Statutes, to exempt from the public disclosure requirements of Florida Statutes § 119.07(1) proprietary confidential business information. The phrase "proprietary confidential business information" is, in turn, defined broadly by the statute to allow this Commission to protect from disclosure any information that is (1) intended to be private and treated accordingly by the company when (2) disclosure of the information would cause harm to the company's business operations.

26. It is obvious that the gratuitous public disclosure of confidential attorney-client communications has a significant prospect for harm to the company. The privilege itself was created because, in the words of one court, "in the interest of the administration of justice, ...persons seeking legal aid and counsel should be free to communicate with a confidential advisor about the subject matter of their problem without fear of consequences or the apprehension of disclosure." Modern Woodmen of American v. Watkins, 132 F.2d 352, 354 (5th Cir. 1942).

27. Likewise, the work product doctrine is of crucial importance in this situation. This "doctrine was developed in order to discourage counsel from one side from taking advantage of trial preparation undertaken by opposing counsel, and thus both to protect the morale of the profession and to encourage both sides to a dispute to conduct thorough, independent investigations in preparation for trial." U.S. v. 22.80 Acres of Land, 107 F.R.D. 20, 24 (U.S.D.C. Cal. 1985). The work product doctrine, and the compelling reasons for its existence, apply equally to situations such as ours in which the documents in question are created in anticipation of litigation. See generally, U.S. v. Real Estate Board of Metropolitan St. Louis, 59 F.R.D. 637 (U.S.D.C. Mo. 1973).

28. In this instance, Southern Bell has likely already been harmed by the combination of the inadvertent disclosure of the privileged material and the subsequent refusal of Public Counsel to acknowledge the case law holding that no privilege was waived and to return the documents. This injury should not be compounded by the additional and unnecessary public disclosure of information that the company reasonably expected to be kept confidential.

29. The manner in which public disclosure of employee discipline could adversely affect future efforts to administer appropriate discipline has already been discussed. Likewise, managers of the company may be understandably disinclined in the future to seek legal advice if the inadvertent disclosure of this

advice can be used to justify not only invading the attorney-client and work product privileges, but also making public the inherently confidential contents of this privileged communications.

30. In the final category, Southern Bell has provided information to the Attorney General's office in connection with the ongoing criminal investigation. In addition, the Attorney General's office has interviewed Southern Bell employees. Section 119.07(3)(d) specifically states that active criminal investigation information is exempt from the Public Record Act. Thus, the portions of Mr. Maloy's testimony and exhibits which contains such information should be held to be proprietary and confidential.

31. In accordance with Rule 25-22.006, Florida Administrative Code, the information for which confidential treatment is sought is intended to be and is treated by the Company as private and has not been disclosed on a nonconfidential basis.

WHEREFORE, Southern Bell Telephone and Telegraph Company moves the Prehearing Officer to enter an Order declaring the information described above, and contained in the indicated portions of the attached exhibits, to be confidential, proprietary business information and thus not subject to public disclosure.

Respectfully submitted this 4th day of February, 1993.

SOUTHERN BELL TELEPHONE
AND TELEGRAPH COMPANY

Harris R. Anthony
HARRIS R. ANTHONY (24)

J. PHILLIP CARVER
c/o Marshall M. Criser
400 - 150 South Monroe Street
Tallahassee, Florida 32301
(305) 530-5555

R. Douglas Lackey
R. DOUGLAS LACKEY (24)

NANCY B. WHITE
4300 - 675 West Peachtree St.
Atlanta, Georgia 30375
(404) 529-5387

FPSC DOCKET 920260-TL

TESTIMONY OF MIKE MALOY

EXPLANATION FOR PROPRIETARY INFORMATION

- A. This information reflects customer specific information. The Commission has always zealously protected customer specific information in order to protect the customer's privacy and prevent a competitor of the customer from obtaining an unfair advantage. As such, this information is classified confidential business information pursuant to Section 364.183, Florida Statutes, and is exempt from the Open Records Act.
- B. This information relates to competitive interests and/or unregulated operations, the disclosure of which would impair the competitive business and/or unregulated operations of Southern Bell. In particular, this information discusses aspects of Southern Bell's CCS, CPE, and/or Inside Wire services. As such, this information is classified as confidential business information pursuant to Section 364.183, Florida Statutes, and is exempt from the Open Records Act.
- C. This information reflects employee personnel information unrelated to compensation, duties, qualifications or responsibilities. As such, this information is classified as confidential business information pursuant to Section 364.183, Florida Statutes, and is exempt from the Open Records Act.
- D. This information was discovered from information gathered pursuant to a criminal investigation in Florida. As such, this information is classified as confidential business information pursuant to Section 119.073(3) (d), Florida Statutes, and is exempt from the Open Records Act.
- E. This information was discovered from information gathered as a part of an investigation conducted at the direction of counsel by Southern Bell in Florida and, as such is attorney/client work product. Therefore, this information is privileged confidential business information pursuant to Section 364.183, Florida Statutes, and is exempt from discovery. In addition, this information may also reflect employee personnel information related to discipline or other private personnel matters. As such, this information is classified as confidential business information pursuant to Section 364.183, Florida Statutes, and is exempt from the Open Records Act.

LOCATION OF THE PROPRIETARY INFORMATION

<u>PAGE NO.</u>	<u>LINE NOS./COL. NO.</u>	<u>REASON</u>
17	25	D
18	1-3; 10-19	D
19	5-10	D
20	4-13	D
25	5-7	D
29	23-25	D
30	All Lines	D
31	1-3; 8-9; 25	D
32	4-15; 17; 24-25	D
33	1-2; 13-21	D
67	3-11; 23-25	D
68	1-6	D
71	15-25	D
72	1-15; 18-25	D
73	4-25	D
74	1-8	D
105	13, 18	D
116	Entire Page	D

FPSC DOCKET 920260-TL

TESTIMONY OF EARL POUCHER

EXPLANATION FOR PROPRIETARY INFORMATION

- A. This information reflects **customer specific information**. The Commission has always zealously protected customer specific information in order to protect the customer's privacy and prevent a competitor of the customer from obtaining an unfair advantage. As such, this information is classified as confidential business information pursuant to Section 364.183, Florida Statutes, and is exempt from the Open Records Act.
- B. This information relates to **competitive interests and/or unregulated operations**, the disclosure of which would impair the competitive business and/or unregulated operations of Southern Bell. In particular, this information discusses aspects of Southern Bell's **CCS, CPE, and/or Inside Wire services**. As such, this information is classified as confidential business information pursuant to Section 364.183, Florida Statutes, and is exempt from the Open Records Act.
- C. This information reflects **employee personnel information unrelated to compensation, duties, qualifications or responsibilities**. As such, this information is classified as confidential business information pursuant to Section 364.183, Florida Statutes, and is exempt from the Open Records Act.
- D. This information was discovered from information gathered pursuant to a **criminal investigation in Florida**. As such, this information is classified as confidential business information pursuant to Section 119.073(3) (d), Florida Statutes, and is exempt from the Open Records Act.
- E. This information was discovered from information gathered as a part of an **investigation conducted at the direction of counsel by Southern Bell in Florida** and, as such is attorney/client work product. Therefore, this information is privileged confidential business information pursuant to Section 364.183, Florida Statutes, and is exempt from discovery. In addition, this information may also reflect employee personnel information related to discipline or other private personnel matters. As such, this information is classified as confidential business information pursuant to Section 364.183, Florida Statutes, and is exempt from the Open Records Act.

CONFIDENTIAL PORTIONS OF EARL POUCHER

ATTACHMENTS TO Testimony

<u>PAGE NO.</u>	<u>LINES OF COLUMN(S)</u>	<u>REASON</u>
3	Lns. 2, 14, 22, 40-41, 44	C
4	Lns. 1, 4, 6, 8, 9, 18, 21, 23, 24 25, 27, 30, 34, 36	C C
5	Lns. 2, 21, 35, 36, 37, 38	C
6	Lns. 19, 27-30	C
8	Lns. 28	
9	Lns. 2, 4, 5, 7, 8	C
12	Lns. 10, 11, 12	C
14	Lns. 8-43	C,E
15	Lns. 4-41	C,E
16	Lns. 5-32	C,E
20	Lns. 21-25	C
21	Lns. 1-6, 9, 13, 14, 22, 25	C
22	Lns. 5	C
23	Lns. 5, 6, 9-11, 17, 21	C
24	Lns. 22, 25	C
25	Lns. 2-4, 8-11, 20-22, 24, 25	C
26	Lns. 3-6, 8, 9, 11-15, 17-19	C
27	Lns. 8, 12, 18, 19, 25	C
28	Lns. 1, 5, 8-10	C
29	Lns. 3, 7, 10, 11, 16, 19, 20, 22, 24	C
30	Lns. 4-6, 13-17	C
31	Lns. 10-16, 21, 22	C
32	Lns. 6, 7, 11, 19, 20	C
35	Lns. 1, 2	C
50	Lns. 50-20, Cols. A-C	B
56	Lns. 4, 7, 10	C
57	Lns. 4	C
58	Lns. 4	C
59	Lns. 4	C
60	Lns. 4, 7, 11	C
61	Lns. 4	C
62	Lns. 4, 13	C
63	Lns. 4, 7, 16	C
64	Lns. 4, 12	C
65	Lns. 4, 13	C
66	Lns. 4	C
67	Lns. 4, 7	C
68	Lns. 4,7	C
69	Lns. 4, 7, 10	C

ATTACHMENT A
PAGE 3 OF 4

<u>Page</u>	<u>Lines of Column(s)</u>	<u>REASON</u>
70	Lns. 4, 12	C
71	Lns. 4, 10, 11	C
72	Lns. 4, 13	C
73	Lns. 4, 7, 10	C
74	Lns. 3	C
75	Lns. 3, 13	C
76	Lns. 4, 7, 10	C
77	Lns. 4, 13	C
78	Lns. 4, 7, 11	C
79	Lns. 4, 14, 15	C
80	Lns. 4, 7, 12	C
81	Lns. 4, 12	C
82	Lns. 4, 7, 10	C
83	Lns. 4, 13	C
85	Lns. 4, 13	C
86	Lns. 4, 13	C
87	Lns. 4	C
88	Lns. 4, 12	C
89	Lns. 3, 6	C
90	Lns. 4, 12	C
91	Lns. 4, 13	C
92	Lns. 4, 12	C
93	Lns. 4, 11, 12, 13	C
94	Lns. 4	C
95	Lns. 4, 13	C
96	Lns. 4, 13	C
97	Lns. 4, 13	C
98	Lns. 4, 13	C
99	Lns. 4, 11	C
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101	Lns. 4	C
102	Lns. 4, 7, 12, 20, 24, 25	C
103	Lns. 1, 3, 4	C
104	Lns. 1, 2, 4, 14,	C
105	Lns. 4, 7, 20, 24, 25	C
106	Lns. 1, 3	C
107	Lns. 1, 2	C
125	Lns. 1, 2, 7, 8, 12, 13, 14, 19, 20, 21, 25-28, 32-35, 39-42, (Cols A-C)	C, E
126	Lns. 1, 2, 7, 8, 13, 14, 19, 20, 25, 26, 31, 32, 37, 38, (Cols A - C)	C
127	Lns. 1, 2, 7, 8, 13, 14, 19-21, 26-28, 33-35, 39, 40 (Cols A-C)	C
128	Lns. 1, 2, 7-9, 13-16, 20-23, 27-30, 34-37, 41-44, 49, 50 (cOLS A-C) 41-44, 49, 50 (Cols A-C)	C, E

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156	Lns. 4	C
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159	Lns. 4, 7, 11	C
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164	Lns. 4, 13	C
165	Lns. 4, 14	C
166	Lns. 4	C
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169	Lns. 4, 13, 14	C
170	Lns. 4, 7, 10	C
171	Lns. 4, 7, 13	C
172	Lns. 4	C
173	Lns. 4, 13	C
174	Lns. 4	C
175	Lns. 4, 13	C
176	Lns. 4, 7, 11	C
177	Lns. 4, 14	C
178	Lns. 4, 7, 11	C
179	Lns. 4, 7, 10, 16	C
180	Lns. 4	C
181	Lns. 4, 13	C
182	Lns. 4, 12	C
183	Lns. 4, 5, 8, 14	C
184	Lns. 4	C
185	Lns. 4, 7, 11	C
186	Lns. 4, 13	C
187	Lns. 4, 16	C
188	Lns. 4	C
189	Lns. 4	C
190	Lns. 4, 13	C

FPSC DOCKET 920260-TL

TESTIMONY OF MARK N. COOPER

EXPLANATION FOR PROPRIETARY INFORMATION

- A. This information reflects customer specific information. The Commission has always zealously protected customer specific information in order to protect the customer's privacy and prevent a competitor of the customer from obtaining an unfair advantage. As such, this information is classified confidential business information pursuant to Section 364.183, Florida Statutes, and is exempt from the Open Records Act.
- B. This information relates to competitive interests and/or unregulated operations, the disclosure of which would impair the competitive business and/or unregulated operations of Southern Bell. In particular, this information discusses aspects of Southern Bell's CCS, CPE, and/or Inside Wire services. As such, this information is classified as confidential business information pursuant to Section 364.183, Florida Statutes, and is exempt from the Open Records Act.
- C. This information reflects employee personnel information unrelated to compensation, duties, qualifications or responsibilities. As such, this information is classified as confidential business information pursuant to Section 364.183, Florida Statutes, and is exempt from the Open Records Act.
- D. This information was discovered from information gathered pursuant to a criminal investigation in Florida. As such, this information is classified as confidential business information pursuant to Section 119.073(3) (d), Florida Statutes, and is exempt from the Open Records Act.
- E. This information was discovered from information gathered as a part of an investigation conducted at the direction of counsel by Southern Bell in Florida and, as such is attorney/client work product. Therefore, this information is privileged confidential business information pursuant to Section 364.183, Florida Statutes, and is exempt from discovery. In addition, this information may also reflect employee personnel information related to discipline or other private personnel matters. As such, this information is classified as confidential business information pursuant to Section 364.183, Florida Statutes, and is exempt from the Open Records Act.

LOCATION OF THE PROPRIETARY INFORMATION

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