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ORIGINAL
FILE COPY

June 24, 1993

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

RE: Docket Nos. 920260-TL, 900960-TL, 910163-TL, 910727-TL

Dear Mr. Tribble:

Enclosed are an original and fifteen copies of Southern Bell Telephone and Telegraph Company's Motion for Reconsideration of Order No. PSC-93-0891-CFO-TL. Please file this document in the above-captioned dockets.

- ACK
- AFA
- APP
- CAF
- CMU
- CTR
- EAG
- LEG
- LTH

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,

Sidney J. White Jr.
Sidney J. White, Jr.

6 Enclosures

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

KS

SEARCHED & FILED
[Signature]
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DOCUMENT NUMBER-DATE
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1100-RECORDS/REPORTING

CERTIFICATE OF SERVICE

Docket No. 920260-TL

Docket No. 900960-TL

Docket No. 910163-TL

Docket No. 910727-TL

I HEREBY CERTIFY that a copy of the foregoing has been
furnished by United States Mail this 24th day of June, 1993 to:

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Sidney J. White, Jr.
(102)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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|---|---|--|
| In re: Comprehensive Review of the Revenue Requirements and Rate Stabilization Plan of Southern Bell Telephone and Telegraph Company |) | Docket No. 920260-TL |
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| In re: Show cause proceeding against Southern Bell Telephone and Telegraph Company for misbilling customers |) | Docket No. 900960-TL |
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| In re: Petition on behalf of Citizens of the State of Florida to initiate investigation into integrity of Southern Bell Telephone and Telegraph Company's repair service activities and reports |) | Docket No. 910163-TL |
| <hr/> | | |
| In re: Investigation into Southern Bell Telephone and Telegraph Company's compliance with Rule 25-4.110(2), F.A.C., Rebates |) | Docket No. 910727-TL Filed: June 24, 1993 |

SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S
MOTION FOR RECONSIDERATION OF ORDER NO. PSC-93-0891-CFO-TL

COMES NOW, BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company ("Southern Bell" or "Company"), and files, pursuant to Rule 25-22.038(2) and 25-22.037, Florida Administrative Code, its Motion for Reconsideration of Order No. PSC-93-0891-CFO-TL, issued on June 14, 1993 in the above-referenced dockets.

1. On June 2, 1992, Staff served its Second Request for Production of Documents on Southern Bell in Docket No. 920260-TL. This request was in part a "me too" request for the same documents previously requested and ultimately produced for Public

Counsel in its First Request for Production of Documents, Item No. 16¹, in Docket No. 880069-TL.

2. On November 16, 1992,² Southern Bell submitted its responses to several of Staff's document requests, and among the documents submitted were those responsive to Request No. 23, which are the subject of Order No. PSC-93-0891-CFO-TL. Southern Bell also filed a Request for Confidential Classification for the above-referenced documents at the same time.

3. On June 14, 1993, the Prehearing Officer issued Order No. PSC-93-0891-CFO-TL granting in part and denying in part the Company's Request for Confidentiality for portions of its response to Request No. 23.

4. In her discussion of the reasons for denying certain portions of Southern Bell's Request for Confidentiality, the Prehearing Officer made certain comments that led Southern Bell to believe that a discrepancy may have existed in the supporting documentation filed with its Request for Confidentiality and which was intended to be submitted with the filing.

5. For example, the Order states at page 2 that 196 pages of documents did not contain "vendor-specific pricing

¹ As more specifically explained herein, the documents produced for Public Counsel, which are also the same documents at issue in this Order, are currently subject to an Order granting the documents temporary exemption from Section 119.07, Florida Statutes.

² The Order indicates Southern Bell's responses were submitted on November 17, 1992, but Company records indicate that these responses were served on November 16, 1992.

...negotiated by Bell" or "new services or capabilities that a vendor plans to use or offer in the future."³ Based on this reasoning, and without further comment, the Prehearing Officer summarily denied Southern Bell's Request for Confidential Classification for these documents. Immediately upon receipt of the Order, Southern Bell reviewed its work papers relating to the documents produced in response to Staff's Request No. 23, and found that in its listing of proprietary justifications matching the above-referenced material the pages of information are described as containing "projected units and/or revenues for competitive services" and "market strategy" documents. This description is accurate, and these reasons were also referenced in the Company's November 16, 1992 Request for Confidentiality for such documents. Southern Bell identified these documents in its pleading and likewise intended to consistently reference them in a similar manner in the supporting documentation.

6. Based on the Company's review of its files after receiving the Order, it is apparent that the list of proprietary justifications appended to Southern Bell's original Request for Confidentiality is not the same as that used by the Company to prepare the filing and which should have accompanied the filing. Southern Bell does not know why the Staff came into possession of

³ These two proprietary justifications correspond to Item Nos. 1 and 3 of Southern Bell's list in Attachment A of its original filing. Southern Bell's review of these documents indicates that in fact 215 pages of documents were submitted, rather than 196, supported by proprietary justification Nos. 1 and 3.

the list they used in analyzing these documents, but it is apparent that they were using a list not intended for the documents produced.

7. Southern Bell prepared its Request for Confidentiality with the good faith intent of submitting a list of reasons justifying proprietary treatment that matched the list used to prepare the filing for the Commission. Item Nos. 1 and 3 on the list found with the Company's internal workpapers related to Request No. 23 had the proper justifications included therein. It was not until the Company reviewed Order No. PSC-93-0891-PSC-CFO-TL that it realized a problem of this nature existed.

8. Southern Bell did receive a letter from the Staff on February 3, 1993 indicating that certain portions of the subject documents had been improperly redacted or highlighted without corresponding justification. Southern Bell was given an opportunity to cure these deficiencies. However, Southern Bell was not apprised of the fact that information clearly related to intraLATA toll competitive impacts and market analyses was labeled as "vendor-specific" information. Had the Company been so apprised, it would have already cured the deficiency. Apparently, at the time, even Staff had not noticed this discrepancy in the documents and the proprietary justifications relating to such documents.

9. Southern Bell is attaching Item Nos. 1 and 3 from the list actually used by the Company to prepare the "Attachment A" for the Request for Confidentiality which was intended to have

originally accompanied the filing. Southern Bell asks for reconsideration of the Company's Request for Confidentiality regarding the documents or portions thereof, produced in response to Request No. 23. The Company further requests that the Commission substitute the attached rationale as applying to Item Nos. 1 and 3 in the Attachment A index and consider the arguments already made in its November 16, 1992 Request for Confidentiality as well as those presented herein. Item Nos. 1 and 3 are submitted to support all the pages of documents relating to intraLATA toll competitive impacts, analyses and strategies and to the "Toll Planning Analysis Assumptions and Inputs" and the "Foundation Plan - Round 2 (4/92)" documents. No party will be harmed or disadvantaged in any manner if Southern Bell is afforded an opportunity to cure this deficiency in its filing.

10. Southern Bell's information and analyses relating to competitive services such as intraLATA toll services, particularly market strategies, projected market share and revenue data and other competitive market based information addressing variable competitive scenarios is highly proprietary. The proprietary justifications originally intended to be appended to the Company's Request for Confidentiality applicable to these documents, and now provided to the Commission, articulate the requisite harm in publicly disclosing the information.

11. It is common knowledge that Southern Bell's intraLATA service markets are becoming increasingly competitive. Consequently, the Company's evaluation, analyses, strategies and

possible competitive responses relating to such increasing competitive influences are of paramount importance to Southern Bell, and of keen interest to its competitors and potential competitors. Examples of the type of information contained within the pages of documents will illustrate that this information is of competitive value. These include information showing revenue impacts from various intraLATA competition scenarios, Southern Bell's possible strategic responses to competitive scenarios, discussions of specific competitive proposals and supporting rationale, empirical results of market research and analysis, market segmentation summaries containing service specific usage characteristics by industry group, toll planning analyses, recommendations on competitive strategy, and sensitivity analyses. The Company's competitors would be extremely interested in Southern Bell's assessment of the competitive environment and its possible business options and strategies in such environments. Most notably, Alternative Access Vendors (AAVs) and Interexchange Carriers (IXCs) pose major competitive to threats to Southern Bell in the intraLATA markets. Southern Bell does not have unrestricted access to these competitors' market evaluations, analyses or plans for competing against Southern Bell for the Company's use in developing corresponding strategies. In fact, in proceedings before this Commission, these parties have steadfastly maintained that such information is proprietary business information. It would be manifestly unjust to compel public disclosure of

Southern Bell's competitive information while the Company is constrained from obtaining public access to its competitors' similar information.

12. Knowledge of Southern Bell's business strategy can benefit competitors or potential competitors in developing their own counter-strategies to the detriment of Southern Bell. To the extent such counter-strategies are successful, Southern Bell will suffer increased losses of revenues from its intraLATA toll business, which revenues have historically been the source of contribution used to maintain basic local service rates at reasonable levels. Competition is fast increasing within Southern Bell's LATAs, and the sensitivity and the usefulness of the Company's intraLATA competitive analysis, if such information finds its way into the hands of Company competitors or potential competitors is increasing, not diminishing. Section 364.183(3)(e), Florida Statutes expressly provides that information relating to competitive interests which, if publicly disclosed, would harm the competitive position of the provider of the information is entitled to classification as proprietary confidential business information. The information sought to be protected from public disclosure by Southern Bell on its face satisfies this statutory standard. Consequently, Southern Bell urges that reconsideration be given with respect to the portions of the Company's documents responsive to Staff's Request No. 23 that relate to the competitive intraLATA service markets.

13. The Order clearly indicates that the documents at issue herein contain discussions and evaluations of the impact of IntraLATA competition on Southern Bell's toll business and not vendor prices, services or capabilities. Order, at p. 2. Southern Bell clearly did not intentionally use the incorrect proprietary justification for this information. In any event, the Prehearing Officer can, as it did elsewhere in the Order, in its discussion of carrier-specific information, recognize that information which is entitled to proprietary treatment be afforded confidential classification. Southern Bell requests that based on the unusual circumstances set forth herein, reconsideration be given based on the Company's intended rationale, not on what was inadvertently submitted.

Other Matters

14. The document entitled "Toll Planning Analysis Assumptions and Inputs" was denied confidential classification because the Prehearing Officer found that the document did not "consist of demographic data." The study uses demographic assumptions for particular areas, but the primary reason that this document should be afforded confidential classification is that it, like the other pages of documents discussed above, contains Southern Bell's intraLATA toll service competitive response options and analyses based on articulated assumptions and inputs also contained in the document. As with the pages already discussed, this document should also be reconsidered for

confidential classifications based on the attached proprietary justification Nos. 1 and 3, instead of the rationale contained in the inadvertently provided list.

15. With regard to the above document as well as the "Foundation Plan-Round 2 (4/92)", the Order states that Southern Bell has previously produced:

"the same or similar information...in prior proceedings in which Bell was involved, and is now a matter of public record."
Order, at page 3.

However, the Prehearing Officer cites no docket or specific place where such information was actually produced publicly. Southern Bell is currently unaware of any previous production of the documents at issue here without a corresponding request for confidentiality and, therefore, the Company requests reconsideration of this matter or a clarification of the Order to specify when and where such documents may have been made public records.

16. The Order also indicates that 13 pages of market strategy information is too "general" and that:

"much of the information identified under Bell's market strategy justification has already been disclosed elsewhere. As such it cannot qualify for confidential classification."

This general statement is also insufficient to overcome Southern Bell's request for confidential classification based on the Company's market strategy justification. If the information has been publicly produced, then the Order should indicate specifically where the information has been previously made

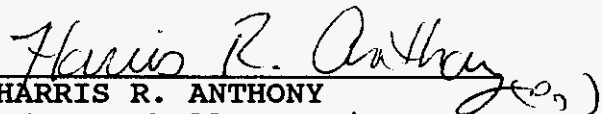
public, such as through reference to a docket number and discovery request item. Previous Orders of the Commission have contained such specificity which provide the necessary references to enable Southern Bell to analyze the Order and decide whether or not to pursue or not pursue reconsideration. Since no such reference is contained in the Order, Southern Bell requests reconsideration or clarification of this purported finding.



17. Finally, Southern Bell has previously produced these exact documents for Public Counsel and the Commission has recently issued a Temporary Protective Order exempting such documents from public disclosure. (Order No. PSC-93-0675-PCO-TL, issued May 3, 1993, which addresses Southern Bell's April 24, 1992 Motion for Temporary Protective Order relating to the documents at issue herein) The Commission's previous recognition of the proprietary nature of the documents provides additional support for protecting these documents in the possession of the Commission.

Based on the foregoing, Southern Bell moves the Prehearing Officer to reconsider those portions of Order No. PSC-93-0891-CFO-TL discussed above using the list now being provided and to find that the information at issue is entitled to confidential classification.

Respectfully submitted this 24th day of June, 1993.

SOUTHERN BELL TELEPHONE
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EXPLANATION OF PROPRIETARY DESIGNATION

1. This information reflects projected units and/or revenues for competitive services and, therefore, demand for certain Southern Bell services. If this information were given to a competitor he would know how much growth Southern Bell expects in a particular service, thus telling the competitor he too should begin offering these services. This information is valuable and is used by Southern Bell in conducting its business and Southern Bell strives to keep it secret. Therefore, such information is a trade secret which should be classified as proprietary, confidential business information pursuant to Section 364.183, Florida Statutes. In addition, this information represents research performed by Southern Bell which should not be given free of charge to entities which compete with Southern Bell. Southern Bell compiled and developed this information in order to assist it in analyzing this subject matter. Southern Bell's competitors should not be allowed to benefit from research performed at Southern Bell's expense.

3. This information reflects Southern Bell's market strategy. Southern Bell's competitors can use this information to develop their own market strategy with which to thwart Southern Bell's effort in this market. Thus, the disclosure of this information to Southern Bell's competitors would impair Southern Bell's ability to compete. In addition this information is valuable as it is used by Southern Bell in conducting its business and Southern Bell strives to keep it secret. Therefore, it is a trade secret which should be classified as proprietary, confidential business information exempt from the Open Records Act pursuant to Section 354.183 Florida Statutes.