

FLORIDA PUBLIC SERVICE COMMISSION

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M E M O R A N D U M

AUGUST 5, 1993

TO : DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM : DIVISION OF LEGAL SERVICES [GREEN, PIERSON] *AP TL*
DIVISION OF COMMUNICATIONS [NORTON] *abn*
DIVISION OF AUDITING AND FINANCIAL ANALYSIS [JOHE] *lg 198*

RE : DOCKET NO. 920260-TL - COMPREHENSIVE REVIEW OF REVENUE REQUIREMENTS AND RATE STABILIZATION PLAN OF SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY

DOCKET NO. 910163-TL - INVESTIGATION INTO THE INTEGRITY OF SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S REPAIR SERVICE ACTIVITIES AND REPORTS.

DOCKET NO. 910727-TL - INVESTIGATION INTO SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S COMPLIANCE WITH RULE 25-4.110(2), F.A.C., REBATES.

DOCKET NO. 900960-TL - SHOW CAUSE PROCEEDING AGAINST SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY FOR MISBILLING CUSTOMERS.

AGENDA: AUGUST 17, 1993 - CONTROVERSIAL AGENDA - PARTIES MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\LEG\WP\920260A.RCM

CASE BACKGROUND

This recommendation is before the Commission in order to address a number of motions for reconsideration or review of orders resolving various motions and/or requests for confidential classification. These motions were filed by BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone & Telegraph Company (Bell) and the Office of Public Counsel (OPC). Specific background, to the extent appropriate, is addressed under the discussion of the specific motions for reconsideration or review.

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08451 AUG-58

1700-RECORDS/REPORTING

DISCUSSION OF ISSUES

Issue 1: Should the Commission reconsider Order No. PSC-93-0823-CFO-TL?

Recommendation: The Commission should not reconsider the majority of Order No. PSC-93-0823-CFO-TL since Bell has not pointed out any error or omission of fact or law in that order. The Commission should, however, reconsider that portion of Order No. PCS-93-0823-CFO-TL which deals with page 958 of Late-Filed Exhibit No. 3. In addition, the Commission should correct Order No. PSC-93-0823-CFO-TL to replace "IXC" for "LEC" in the discussion of Late-Filed Exhibit No. 6.

Staff Analysis: On January 7, 1993, Staff took the deposition of Walter S. Reid, an employee of Bell. During said deposition, Staff requested that Mr. Reid submit certain late filed exhibits. On February 5, 1993, Bell submitted some of these exhibits. On February 17, 1993, Bell submitted the remainder of the requested exhibits, which were designated as Document No. 1894-93, along with its request for specified confidential classification of some of the materials. By Order No. PSC-93-0823-CFO-TL, issued June 1, 1993, the Prehearing Officer granted Bell's request, in part, and denied it, in part.

On June 11, 1993, Bell filed a motion for reconsideration of Order No. PSC-93-0823-CFO-TL. Its arguments are set forth under the heading of the exhibits to which they apply, below.

Late-Filed Exhibit No. 2

Pages 621-626 - This material relates to a pro forma adjustment to reconcile audited to reported Percent Intrastate Usage (PIU). Bell argues that the information is entitled to confidential classification because it was provided to Bell by interexchange carriers (IXCs) pursuant to nondisclosure agreements. Bell bases its claim upon the following highlighted language contained in Section 364.183, Florida Statutes:

(3) The term "proprietary confidential business information" means information . . . 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 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 pursuant to a . . . private agreement that provides that the

information will not be released to the public. (Emphasis added.)

Apparently, Bell believes that the underlined language is self-actuating. Staff does not agree. Staff believes that the above-quoted language is the first part of a two prong test. In order to qualify for confidential classification, the information must, as a threshold issue, be treated by its owner as confidential. However, acquiring the materials subject to nondisclosure agreements does not automatically guarantee that they shall be found to be confidential: the information must also be of a type that would cause harm to the ratepayers or its owner's business operations. Under Rule 25-22.006(4)(e), Florida Administrative Code, it is the burden of the party claiming confidential status either to show that the material falls under one of the statutory examples or to demonstrate the harm that would occur if the material is disclosed.

In this regard, Bell argues that, if the information is disclosed, the IXCs may be less likely to voluntarily cooperate in future PIU audits. Staff is not persuaded by this argument. The IXCs' cooperation in PIU audits is not voluntary. If an IXC fails to cooperate with a PIU audit, Staff believes that Bell can resolve the problem by filing a motion to compel with the Commission.

Bell also argues that the information in question is customer specific information, which this Commission has historically held to be confidential. Staff believes that Bell's reliance on this argument is somewhat misplaced. While it is true that the information is specific to the IXCs from which it was gathered, it is not the type of information that Staff believes should be held confidential. Generally, the Commission has held the names, addresses and telephone numbers of subscribers to be confidential, based upon Section 119.07(3)(w), Florida Statutes. It has also held, as confidential, information relating to specific customers' competitive interests, based upon Section 364.183(3)(e), Florida Statutes. The information sought to be protected herein consists of adjustments between audited and reported PIU. As determined by the Prehearing Officer in Order No. PSC-93-0823-CFO-TL, such data would not harm the IXC's competitive interests.

Bell also states that "Southern Bell has already publicly provided the total intrastate revenue effect of the combined PIU audits for the 1991 and 1992 time frames. No legitimate purpose would be served by further public release of the amounts individually recovered from each of Southern Bell's IXC customers." This statement underscores what appears to be a fundamental misapprehension on Bell's part. Confidentiality does not turn on

whether any legitimate purpose would be served by disclosure. The fulcrum upon which confidentiality turns is whether disclosing the material would harm the IXCs' or Bell's business operations, or their ratepayers.

For the reasons set forth above, Staff recommends that the Commission deny Bell's motion for reconsideration of the Prehearing Officer's decision in this regard.

Page 890 - This material consists of early retirement costs for subsidiaries of BellSouth Corporation. Bell originally argued that disclosure of the information would impair its affiliates' competitive interests. However, it did not explain how disclosure would affect such interests. The Prehearing Officer, therefore, denied Bell's request for confidential classification of these materials.

In its motion for reconsideration, Bell argues that competitors could use the early retirement cost information to forecast the potential ability of its affiliates' to downsize and thus, the potential degree to which they may be able to reduce prices. According to Bell, such information could allow these competitors to gain a competitive advantage by reducing their prices either first or by a greater amount.

Since Bell did not make this argument in its original request, Staff does not believe that it is an appropriate basis for reconsideration. Accordingly, Staff recommends that the Commission reject Bell's request for reconsideration of the Prehearing Officer's decision on this matter.

Late-Filed Exhibit No. 3

Page 957 - This information depicts certain financial information of BellSouth Advertising and Publishing Company (BAPCO). In its original request, Bell argued that disclosure of the information could allow BAPCO's competitors to develop "strategies". However, Bell did not discuss how disclosure would allow competitors to develop strategies or what kind of strategies it referred to. Since the burden of demonstrating harm falls upon Bell, the Prehearing Officer denied its request.

In its motion for reconsideration, Bell argues that Order No. PSC-93-0823-CFO-TL "acknowledges" that the material is confidential. This is somewhat of an overstatement. The order acknowledges that the material has not been disclosed, not that it is confidential. Bell goes on to argue that competitors could use the information to ascertain the costs below which BAPCO would be

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unable to profitably compete, impairing its competitive interests. However, Bell did not make this argument in its original request and Staff does not believe that it is an appropriate ground for reconsideration.

By letter dated August 2, 1993, Bell requested that the Prehearing Officer take into account Order No. PSC-93-0326-CFO-TL as supplemental authority for its motion for reconsideration. By that order, the Prehearing Officer granted Bell's request for confidential classification of certain BAPCO information contained in Document No. 10539-92, including itemized expense, net income, and forecasted revenue and expense information. It must be noted, however, that in its request for confidential classification of Document No. 10539-92, Bell included a detailed description of how disclosure of the information would impair the competitive interests of BAPCO, something they failed to do in this instance.

Since Bell has failed to carry its burden of demonstrating that the materials qualify for confidential classification, and since Staff does not believe that disclosure would harm Bell or BAPCO in any event, Staff recommends that the Commission reject Bell's motion for reconsideration of the Prehearing Officer's decision in this regard.

Page 958 - Bell also requested reconsideration of Order No. PSC-93-0823-CFO-TL insofar as it denied confidential classification of lines 10 and 12. Order No. PSC-93-0823-CFO-TL actually granted Bell's request for confidential classification of these lines. However, Staff believes that the Commission should reconsider this portion of the order anyway.

In its original request for confidential classification, Bell argues that:

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 and/or other companies. In particular, this information discusses aspects of BAPCO's publishing and advertising business. 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.

As discussed above and elsewhere in this recommendation, the burden of demonstrating that information qualifies for confidential classification rests squarely upon Bell. Conclusory statements, without anything more, do not satisfy this burden. Further, Staff

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has reexamined the material and does not believe that disclosure of the information would harm either Bell or BAPCO. Accordingly, Staff recommends that the Commission reconsider this portion of Order No. PSC-93-0823-CFO-TL and deny Bell's request for confidential classification of this information.

Late-Filed Exhibit No. 6

This information again deals with PIU adjustments between audited and reported amounts. Bell argues that the Commission should reconsider the denial of confidential classification of this material for the same reasons set forth under "Late-Filed Exhibit No. 2". Bell also points out that Order No. PSC-93-0823-CFO-TL contains a misstatement in that it refers to the PIU of other LECs operating in Florida and that these LECs might be hesitant to provide the information in the future if disclosed.

For the same reasons given above, Staff recommends that the Commission deny Bell's motion for reconsideration of this portion of Order No. PSC-93-0823-CFO-TL. However, Staff also recommends that the Commission correct Order No. PSC-93-0823-CFO-TL to state "IXC" in place of "LEC" in the discussion of Late-Filed Exhibit No. 6.

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Issue 2: Should the Commission reconsider Order No. PSC-93-0388-CFO-TL?

Recommendation: No. Bell has not identified any error or omission of fact or law in the Prehearing Officer's decisions.

Staff Analysis: On October 30, 1992, Bell filed a request for confidential classification of certain information submitted in response to interrogatories. The responses were designated as Document No. 12789-92. By Order No. PSC-93-0388-CFO-TL, issued March 15, 1993, the Prehearing Officer determined that the materials consisted of adjustments between audited and reported PIU and that individual usage could not be determined therefrom. Accordingly, Bell's request was denied.

On March 25, 1993, Bell filed a motion for reconsideration of Order No. PSC-93-0388-CFO-TL. Essentially, Bell made the same arguments as discussed under Issue 1, Late-Filed Exhibit No. 2, Pages 621 through 626. For the same reasons set forth thereunder, Staff recommends that the Commission deny Bell's motion for reconsideration of Order No. PSC-93-0388-CFO-TL.

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Issue 3: Should the Commission reconsider Orders Nos. PSC-93-0411-CFO-TL, PSC-93-0414-CFO-TL, and PSC-93-0415-CFO-TL?

Recommendation: No. Bell has not identified any error or omission of fact or law in the Prehearing Officer's decisions.

Staff Analysis: On December 9, 1992, Bell filed a request for confidential classification for certain information provided in response to Staff Interrogatory No. 371. The response was designated as Document No. 14306-92. By Order No. PSC-93-0415-CFO-TL, the Prehearing Officer found that the requested information consisted of aggregate toll usage data by mileage band and customer classification, and that it would provide no useful information to any of Bell's competitors. Accordingly, the Prehearing Officer denied Bell's request.

On December 21, 1992, Bell filed a request for confidential classification of certain information contained in its supplemental response to Staff Interrogatory No. 371. The response was designated as Document No. 14757-92. By Order No. PSC-93-0411-CFO-TL, the information contained therein was also found to consist of aggregate toll usage data by mileage band and customer classification. Since it was determined that such data would provide no useful information to Bell's competitors, this request for confidentiality was also denied.

On December 30, 1992, Bell filed a request for confidential classification of information included in its response to Staff Interrogatory No. 427(a), which was designated as Document No. 15023-92. By Order No. PSC-93-0414-CFO-TL, the Prehearing Officer determined that the information consisted of aggregate MTS, Saver Service, WATS and 800 service information grouped by mileage band and time of day. Since it was also found that the data would provide no useful information to competitors, Bell's request for confidential classification of this material was denied.

On March 29, 1993, Bell filed a motion for reconsideration of Orders Nos. PSC-93-0411-CFO-TL, PSC-93-0414-CFO-TL, and PSC-93-0415-CFO-TL. Bell argues that the information that was denied confidential classification relates to competitive interests and that competitors could use the information to target the most lucrative markets and "siphon-off" business, to the detriment of Bell and its ratepayers. Staff does not agree with its assessment. The information discussed herein reveals only patterns of usage. It does not include any customer- or location-specific information which competitors could use to target and siphon off business. In addition, information analogous to that shown in Document No. 15023-92 has already been disclosed in MFR Schedule E-1A, filed by

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Bell in Docket No. 920260-TL. Moreover, as noted in Order No. PSC-93-0414-CFO-TL, Bell "has failed to distinguish the material at issue from information which it has routinely disclosed".

Bell also argues that the material discussed in Orders Nos. PSC-93-0411-CFO-TL and PSC-93-0414-CFO-TL is exactly the same type of information afforded confidential classification in Order No. 19775, issued August 9, 1988. According to Bell, under Peoples Gas System, Inc. v. Mason, 187 So.2d 335 (Fla. 1966) and Reedy Creek Utilities Co. v. Florida Public Service Commission, 418 So.2d 249 (Fla. 1982), the Commission may only modify preexisting orders when new evidence is presented which warrants such a change. Along the same lines, Bell also cites Florida Motor Lines Corp. v. Douglas, 4 So.2d 856 (Fla. 1941), for the proposition that "[c]hanged conditions and circumstances arising out of the rapid development of the state may justify or require changes or modifications of orders made by the Commission."

Bell's arguments in this regard are not persuasive. For one thing, the information at issue here is not exactly the same type of information discussed in Order No. 19775. More importantly, however, Staff believes that Bell's reading of the above-noted cases is overly broad. Both Peoples Gas and Reedy Creek involved Commission attempts to modify specific decisions in specific cases. No attempt has been made to modify Order No. 19775. Staff, therefore, does not believe that Bell's invocation of Peoples Gas and Reedy Creek is applicable to the matter at hand.

Florida Motor Lines involved a petition for judicial review of several Railroad Commission orders granting one bus company's application for extension of operating rights and denying another's. Although it denied the petition, the court nevertheless stated that changed circumstances might justify or even require modification of the Commission's rulings. Again, since no attempt has been made to change or modify Order No. 19775, Staff fails to see how the Florida Motor Lines ruling applies to the instant issue.

Accordingly, for the reasons set forth above, Staff recommends that the Commission reject Bell's motion for reconsideration of Orders Nos. PSC-93-0411-CFO-TL, PSC-93-0414-CFO-TL, and PSC-93-0415-CFO-TL.

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Issue 4: Should the Commission reconsider Order No. PSC-93-0318-PCO-TL?

Recommendation: No. OPC has not pointed out any error or omission of fact or law.

Staff Analysis: On September 11, 1992, OPC filed a motion to require Bell to offer sworn testimony regarding its quality of service reports. Bell filed a response in opposition to OPC's motion on September 18, 1992. The Prehearing Officer heard arguments on this matter at the January 15, 1993 Prehearing Conference. OPC's Motion was granted to the extent that Bell was required to designate a person or persons who can respond to questions regarding the truthfulness of its quality of service reports.

At the January 29, 1993 Motion Hearing, Bell stated that it had designated Mr. Wayne Tubaugh as the person who would be available to respond to questions about the Schedule 11 Reports. Bell stated that Mr. Tubaugh had verified the input data with each of the individuals who compiled it.

At the February 12, 1993 Motion Hearing, OPC stated that it had deposed Mr. Tubaugh and did not believe that Mr. Tubaugh was competent to testify, on behalf of Bell, that the reports are truthful. OPC, therefore, made an oral motion to require Bell to file written testimony attesting to the veracity of its Schedule 11 Reports.

By Order No. PSC-93-0318-PCO-TL, issued March 1, 1993, the Prehearing Officer found that OPC could satisfy its concerns in this regard under a burden of proof standard. In other words, to the extent Mr. Tubaugh or the other witnesses proffered by Bell are incompetent to resolve issues dealing with the Schedule 11 Reports or quality of service, Bell will not have met its ultimate burden of persuasion. The Prehearing Officer, therefore, denied OPC's motion.

On March 11, 1993, OPC filed a motion for review of Order No. PSC-93-0318-PCO-TL. In its motion, OPC recites the facts that lead it to believe that Mr. Tubaugh is incompetent to testify in this regard. OPC concludes that this Commission cannot allow the matter to be resolved as an evidentiary issue and that it must order Bell to sponsor a witness who is competent to testify regarding the Schedule 11 Reports.

On March 18, 1993, Bell filed a response in opposition to OPC's motion. Essentially, Bell argues that OPC's motion for

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review fails to demonstrate any error of fact or law and that it must, therefore, fail.

Staff agrees with Bell in this case. OPC's motion does not raise any matter that the Prehearing Officer overlooked or any error of fact or law. It appears merely to reargue a point that has already been determined, albeit, adversely to OPC. Accordingly, Staff recommends that the Commission deny OPC's motion for review.

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Issue 5: Should these dockets be closed.

Recommendation: No.

Staff Analysis: Regardless of the Commission's decision regarding the previous five issues, these cases are an ongoing concern. Accordingly, these dockets should not be closed at this time.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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
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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: February 17, 1993

SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION

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 files its Request for Confidential Classification regarding certain late-filed exhibits requested by Staff at the deposition of Walter S. Reid taken on January 7, 1993. In support of its Request, Southern Bell shows the following:

1. On January 7, 1993, the Staff of the Florida Public Service Commission conducted a deposition of Walter S. Reid, an employee of Southern Bell. During the course of the deposition, Staff requested that Mr. Reid submit certain late-filed exhibits.

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2. On February 5, 1993, Southern Bell submitted some of the late-filed exhibits requested at Mr. Reid's January 7, 1993 deposition. The Company indicated at that time that it would be submitting other exhibits together with a Request for Confidential Classification relating to such exhibits as soon as they were compiled.

3. Southern Bell has now gathered the additional exhibits, those being Exhibits No. 2, 3, 4, and 6, which contain confidential information. Therefore, Southern Bell herewith files its Request for Confidential Classification for the information contained in the documents being delivered to Staff.

4. 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 statements indicating why the material should be treated as proprietary confidential business information.

5. Appended hereto in an envelope designated as Attachment "B" are two copies of the document with the confidential information deleted.

6. Appended hereto in an envelope designated as Attachment "C" are copies of the documents with the proprietary information highlighted.

7. The information deemed to be confidential by Southern Bell and identified in Attachment "A" contains, among other things, information concerning competitive interests and/or

unregulated operations, information concerning other companies in Florida and internal company audits. With regard to competitive, unregulated, and other company information, any competitor would benefit from possession of this information. Possession of this information would assist Southern Bell's competitors in establishing strategies. If the information were allowed to be released in the public domain, Southern Bell's revenues could well be diminished, with a resulting shortfall which would work to the obvious detriment of Southern Bell's ratepayers, as well as harm the competitive position of Southern Bell. Therefore, under § 364.183, Florida Statutes, this information is exempt from the Open Records Act. Likewise, the information concerning internal audits is exempt from the Open Records Act under § 364.183, Florida Statutes.

8. In accordance with Rule 25-22.006, Florida Administrative Code, this 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.

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Respectfully submitted this 17th day of February, 1993.

SOUTHERN BELL TELEPHONE
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In Re: Comprehensive review of revenue requirements and rate stabilization plan of SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY.) DOCKET NO. 920260-TL
In Re: Investigation into the integrity of SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S repair service activities and reports.) DOCKET NO. 910163-TL
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
In Re: Show cause proceeding against SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY for misbilling customers.) DOCKET NO. 900960-TL ORDER NO. PSC-93-0823-CFO-TL ISSUED: June 1, 1993

Pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, the burden of proving that the materials qualify for specified confidential classification falls upon Bell. According to Rule 25-22.006, Florida Administrative Code, Bell must meet this burden by demonstrating that the materials fall into one of the statutory examples set forth in Section 364.183, Florida Statutes, or by demonstrating that the information is proprietary confidential business information, the disclosure of which will cause Bell or its ratepayers harm.

To that end, Bell submitted an index of the information for which it claims confidential classification, along with an explanatory reference guide consisting of seven separate justifications. Bell's request is considered, by exhibit and page number, below.

LATE FILED EXHIBIT NO.2

Pages 402-419: According to Bell, the information contained on these pages includes out-of-period revenue data regarding independent company settlements. Bell argues that the material should be held confidential because other local exchange carriers (LECs) would be reluctant to provide such information in the future if it was disclosed. Bell's argument in this regard is unconvincing. The revenues depicted on these pages are out-of-period regulated revenues. This Commission receives far more detailed information in cost studies filed by LECs. Identifying the amount by LEC will not harm those LECs or Bell. Its request for confidential classification of these pages is, therefore, denied.

Page 583: This item consists of a disclosure from an internal audit performed by Bell. Accordingly, Bell argues that it is confidential pursuant to Section 364.183(3)(b), Florida Statutes. A review of this item reveals that it is, indeed, an audit disclosure. Bell's request for confidential classification of the item is, therefore, granted.

Pages 621-626: This item is illustrative of a pro forma adjustment made due to Percent Interstate Usage (PIU) audits and the identification of out-of-period revenues. The workpapers supporting this adjustment identify PIU adjustments by inter-exchange carrier (IXC). Bell claims that this item should be confidential because it reflects individual IXC usage for the

ORDER GRANTING, IN PART, AND DENYING,
IN PART, REQUEST FOR CONFIDENTIAL
CLASSIFICATION OF DOCUMENT NO. 1894-93

On January 7, 1993, the Staff of this Commission (Staff) took the deposition of Walter S. Reid, an employee of BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company (Bell). During the course of Mr. Reid's examination, Staff requested that he submit certain late-filed exhibits. Bell submitted some of the requested exhibits on February 5, 1993. On February 17, 1993, Bell submitted the remainder of the requested exhibits, which have been designated by this Commission as Document No. 1894-93, along with a request for specified confidential classification for certain portions thereof.

Under Section 119.01, Florida Statutes, documents submitted to this Commission are public records. The only exceptions to this law are specific statutory exemptions and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision.

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competitive toll market. Upon review, however, the information provided appears to only depict the amounts needed to reconcile reported PIUs to the audited PIUs. Individual usage of access service cannot be determined from the presented data. Bell's request for confidential classification of this information is, accordingly, denied.

Pages 865, 872, 875 & 881-885: These pages depict costs pertaining to an early retirement program, some of which concern BellSouth Communications, Inc. (BCI). Bell argues that this information is confidential because disclosure would impair BCI's competitive and/or unregulated activities. It should be noted that much of this information has already been submitted in response to Staff's First Requests For Production, No. 2, and that Bell did not request that it be held as confidential at that time. As such, it is already public record. In addition, while not differentiating between regulated and unregulated entities, Section 364.183(3)(f), Florida Statutes, specifically excludes information regarding employee compensation from the list of materials entitled to confidential classification. Moreover, Bell has not demonstrated that the disclosure of such information would cause harm to it, its ratepayers, or BCI. Accordingly, its request for confidential classification of these materials is denied.

Page 890: Page 890 also concerns amounts allocated to various BellSouth Corporation subsidiaries due to early retirement. Bell argues that the disclosure of this information would impair these subsidiaries' competitive and unregulated activities. As noted above, employee compensation is one type of information specifically excluded from confidential classification. Further, Bell has not demonstrated how disclosure of this information could harm either Bell, its ratepayers, or its affiliates. Its request for confidential classification of these materials is, therefore, denied.

Pages 900-902: These pages also deal with early retirement cost information related to BCI, the affiliate of Bell which markets customer premises equipment. Bell argues that this information relates to competitive interests and/or unregulated operations, the disclosure of which would impair the competitive business and/or unregulated operations of Bell. The same information was provided on an annual basis in response to the Office of Public Counsel's First Set of Interrogatories, No. 2, without any request for confidentiality. As such, it is already in the public domain. In addition, as noted above, information

regarding employee compensation is specifically excluded from those materials entitled to confidential classification. Further, Bell has not carried its burden of demonstrating how the disclosure of such information would harm it, its ratepayers, or BCI. Bell's request for confidential classification of these pages is, accordingly, denied.

Page 913: Bell argues that this page reflects results of an internal audit and that it is, therefore, confidential pursuant to Section 364.183(3)(b), Florida Statutes. Upon review, the information does appear to depict certain results of an internal audit. Bell's request for confidential classification of Page 913 is, accordingly, granted.

LATE FILED EXHIBIT NO. 3

Page 957: The information contained on Page 957 reflects BellSouth Advertising and Publishing Company (BAPCO) information. Bell argues that this information should be confidential since it relates to a competitive business activity. The information depicted on lines 10-11 has, however, already been disclosed on a nonconfidential basis, although a slightly different amount was reported on line 10, in response to Staff's First Set of Interrogatories, No. 40. Bell's request for confidential classification of Page 957, lines 10-11 is, therefore, denied. The information depicted on lines 12-14, which depicts BAPCO's net income and rate of return, has not previously been disclosed. Nevertheless, it is not clear from Bell's request precisely how disclosure of this bottom-line information could impair BAPCO's unregulated business activities, and as such, Bell has not carried its burden. Its request for confidential classification of Page 957, lines 12-14 is, therefore, denied.

LATE FILED EXHIBIT NO. 4

Page 958: As with the above, these materials depict BAPCO information, and Bell argues that it would impair this nonregulated business if disclosed. Having determined that the information is what it is purported to be, Bell's request for confidential classification of lines 10 and 12 of Page 958 is granted. As for its request for confidential classification of Page 958, line 11, however, the information contained therein has already been disclosed in response to Staff's First Set of Interrogatories, No.

40 and, as such, is already a public record. Bell's request for confidential classification of Page 958, line 11 is, therefore, denied.

LATE FILED EXHIBIT NO. 6

Lines 11-29: These lines depict the PIU of other LECs operating in Florida. Bell contends that these other LECs would be reluctant to provide this information to Bell in the future if they knew that such information would be made available to their competitors. Upon review, however, the information provided appears to only depict the amounts needed to reconcile reported PIUs to the audited PIUs. Individual usage of access service cannot be determined from the presented data. Bell's request for confidential classification of this information is, accordingly, denied.

It is, therefore,

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, the request for confidential classification of Document No. 1894-93, filed by BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company is hereby granted, in part, and denied, in part, as set forth in the body of this Order. It is further

ORDERED that pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, any confidentiality granted to the documents specified herein shall expire eighteen (18) months from the date of issuance of this Order in the absence of a renewed request for confidentiality pursuant to Section 364.183. 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 Susan F. Clark, as Prehearing Officer, this 1st day of June, 1993.


SUSAN F. CLARK, Commissioner and
Prehearing Officer

(S E A L)

RJP

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 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.

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, 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 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.

DOCKETS NOS. 920260-TL, 910163-TL, 910727-TL, 900960-TL
AUGUST 5, 1993

DOCKETS NOS. 920260-TL, 910163-TL, 910727-TL, 900960-TL
AUGUST 5, 1993

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: October 30, 1992
Company (Formerly FPSC Docket)
Number 880069-TL))
_____)

SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION

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 Division Code, and files its Request for Confidential Classification for portions of certain Company responses to Staff's Seventh Set of Interrogatories dated September 25, 1992.

1. Southern Bell is filing its Request for Confidential Classification for portions of Interrogatory Response Nos. 258, 264 and 273, which contain certain information concerning proprietary Percent Interstate Use (PIU) Audits conducted by Southern Bell on various interexchange carriers (IXCs) and financial information on unregulated company operations. Also, in providing the information in response to Item No. 273, Southern Bell is not waiving its previous general objection to the relevance of information pertaining to unregulated products, services, or operations.

2. Southern Bell has appended to this Request for Confidential Classification as Attachment A a listing showing the location in the Interrogatory responses of the information designated by Southern Bell as confidential.

DOCKETS NOS. 920260-TL, 910163-TL, 910727-TL, 900960-TL
AUGUST 5, 1993

3. Appended hereto in an envelope designated as Attachment B are two edited copies of the Interrogatory responses with the confidential information deleted.

4. Attached as Attachment C is a sealed envelope containing copies of the Interrogatory responses with the material which is confidential and proprietary highlighted. Copies of Attachment C are not being served on the other parties in this proceeding.

5. Regarding certain portions of Southern Bell's responses to Interrogatory Item Nos. 258, and 264, these responses are in part entitled to proprietary confidential classification because they contain information concerning Southern Bell's IXC customers' individual usage of the Company's access services provided to the IXCs. Customer-specific network usage information of this nature, although compiled in this case for purposes of determining whether and to what extent the various IXCs have properly reported PIU, is nevertheless considered proprietary confidential business information by Southern Bell's IXC customers.

6. Also, in Item Nos. 258 and 264, the Staff seeks the results of the individual PIU audits conducted by Southern Bell in Florida, including specific amounts recovered from individual IXCs as a result of PIU audit findings. While Southern Bell has provided the total intrastate revenue effect of these audits for 1991 and 1992, the individual IXC-specific results are proprietary, and the public disclosure of this customer-specific proprietary information should not be compelled. In order to obtain IXC cooperation, Southern Bell enters into confidentiality

agreements with the IXCs it audits in these cases and is therefore under an obligation not to publicly disclose the individual details of such audits. It is well documented that some IXCs are not particularly cooperative in these auditing efforts, and the confidentiality agreements are often the vehicles to obtain such cooperation. Section 364.183(3), Florida Statutes, specifically provides that proprietary confidential business information includes information disclosed pursuant to a "...private agreement that provides that the information will not be released to the public." If this PIU audit information were compelled to be publicly released, the result would likely be that Southern Bell would encounter increased difficulty in obtaining cooperation in these crucial audits. Such a result would not be in the public interest because the reason for these audits is to ensure that Southern Bell is being properly compensated for the relative percentages of intrastate and interstate access services provided to IXCs in Florida. To the extent PIU is overstated and left undetected, Southern Bell's regulated intrastate revenues would be negatively affected, thereby causing harm to Southern Bell and ultimately its ratepayers.

7. Regarding Southern Bell's response to Interrogatory Item No. 273, this response contains competitively sensitive information relating to the directory advertising operations of one of Southern Bell's unregulated affiliates, BellSouth Advertising and Publishing Company ("BAPCO"), and as such the information contained therein is proprietary confidential

business information. These responses contain actual unregulated investment as well as net income information.

8. The directory advertising 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 directory advertising 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.

9. Interrogatory Response No. 273 also contains non-regulated net income information. Knowledge of another competitor's profitability clearly places the firm possessing such knowledge in a superior position relative to the other company. Such knowledge could be valuable to competitors since it discloses financial results and could give insight into future expectations concerning the competitive efforts of others. Accordingly, disclosure would give others a competitive advantage which would result in competitive harm and impair the effectiveness of Southern Bell's unregulated affiliate's

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directory advertising business. If BAPCO's revenue stream were to be adversely affected, then Southern Bell's share of these total revenues could also be diminished, resulting in an adverse impact on Southern Bell's regulated revenues in the State of Florida.

10. Southern Bell has treated and intends to continue to treat the material for which confidential classification is sought as private, and this information has not been generally disclosed.


WHEREFORE, based on the foregoing, Southern Bell moves the Prehearing Officer to enter an order declaring the information described above and contained in the indicated portions of the attachments to be confidential proprietary business information, and thus not subject to public disclosure.

Respectfully submitted this 30th day of October, 1992.

SOUTHERN BELL TELEPHONE
AND TELEGRAPH COMPANY


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Attachment A

FPSC DOCKET 920260-TL
FPSC STAFF'S 7th REQUEST FOR DOCUMENTS

JUSTIFICATION FOR CONFIDENTIALITY REQUEST

REASONS:

The documents furnished the Staff in response to this request contain customer specific information, forecasted information on useage, market share, and/or revenues of services that are competitive and are considered Proprietary and Confidential Business Information by Southern Bell.

LOCATION OF THE PROPRIETARY INFORMATION

The proprietary information is identified by page and line numbers as follows:

Interrogatory Number	Line Number
258	10, 12-21, 2327, 29
264	21-37
273	31, 34

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORDER NO. PSC-93-0388-CFO-TL
DOCKETS NOS. 920260-TL, 900960-TL, 910163-TL, 910727-TL
PAGE 2

In Re: Comprehensive review of the revenue requirements and rate stabilization plan of SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY.) DOCKET NO. 920260-TL

In Re: Show cause proceedings against SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY for misbilling customers.) DOCKET NO. 900960-TL

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

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
ORDER NO. PSC-93-0388-CFO-TL
ISSUED: 03/15/93

ORDER GRANTING IN PART AND DENYING IN PART
REQUEST FOR CONFIDENTIAL CLASSIFICATION
OF DOCUMENT NO. 12789-92

On October 30, 1992, Southern Bell Telephone and Telegraph Company (Southern Bell or the Company) filed a Request for Confidential Classification (Request) of certain material submitted in response to Interrogatory Numbers 258, 264, and 273. The Commission has assigned Document No. 12789-92 to the Company's response.

Florida law provides, in Section 119.01, Florida Statutes, that documents submitted to governmental agencies shall be public records. This law derives from the concept that government should operate in the "sunshine." The only exceptions to this law are specific statutory exemptions and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision.

Accordingly, pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, it is the Company's burden to show that the material submitted is qualified

for specified confidential classification. Rule 25-22.006 provides that the Company may fulfill its burden by demonstrating that the documents fall into one of the statutory examples set forth in Section 364.183 or by demonstrating that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

To this end, Southern Bell asserts that the material at issue contains information concerning Percent Interstate Use (PIU) Audits and BellSouth Advertising and Publishing Company which reveal customer specific information, forecasted information on usage, market share, and revenues of services that are competitive. The material, which is considered proprietary and confidential by Southern Bell, is found in the Company's response to Interrogatory No. 258, lines 40, 12-21, 23-27, 29; Interrogatory No. 264, lines 21-37; and Interrogatory No. 273, lines 31, 34.

Upon review, the material is largely found to be not as described by the Company. The Company asserts that material provided in response to Interrogatory 258 and Interrogatory 264 represents its IXC customers' individual usage of access services. However, this is not the case; the material represents only the amount needed to correct the reported PIUs to the audited PIUs. Individual usage of access service cannot be determined from the data. If there is potential harm from disclosure of such data, it has not been demonstrated by the Company and its Request regarding the material shall be denied.

The Request as it applies to material provided in response to Interrogatory 273, line 34, under the column heading "Rate Base Effect" was disclosed in the Company's response to Staff's Interrogatory No. 40. Thus, the Company's Request as it applies to this material shall also be denied.

However, disclosure of the requested information found in the Company's response to Interrogatory 273, at line 31 would cause the Company Competitive harm, as would the information from the same Interrogatory Response, line 34, under column headings "ROI Effect" and "Revenue Requirement." Thus, it is found to be confidential proprietary business information pursuant to Section 364.183(3)(e), Florida Statutes. Such information is exempt from the disclosure requirements of Section 119.07(1), Florida Statutes. Accordingly, the Company's Request regarding this material shall be granted.

DOCUMENT NUMBER-DATE

02783 MAR 15 93

COMMUNICATIONS SECTION

DOCKETS NOS. 920260-TL, 910163-TL, 910727-TL, 900960-TL
AUGUST 5, 1993


Therefore, based on the foregoing, it is

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that Southern Bell Telephone and Telegraph Company's October 30, 1992, Request for Confidential Classification of Document No. 12789-92 is granted in part and denied in part as set forth in the body of this Order. It is further

ORDERED that pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, the confidentiality granted to the documents specified herein shall expire eighteen (18) months from the date of issuance of this Order in the absence of a renewed request for confidentiality pursuant to Section 364.183. 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 Susan F. Clark, as Prehearing Officer, this 15th day of March, 1993.


SUSAN F. CLARK, Commissioner
and Prehearing Officer

(S E A L)

CWM

027

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 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.

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, 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 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.

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AUGUST 5, 1993

2. On March 15, 1993, the Prehearing Officer issued Order No. PSC-93-0388-CFO-TL granting in part and denying in part the Company's Request.

3. In her discussion of the reasons for denying Southern Bell's Request for confidentiality for portions of the Company's responses to Interrogatory Item Nos. 258 and 264, the Prehearing Officer overlooked or failed to consider important reasons why the subject information should be kept confidential. The Prehearing Officer's order also ignores Southern Bell's explanation of the harm that could clearly result from a decision not to protect IXC customer-specific PIU audit-related information from public disclosure. The order makes reference only to the discussion in paragraph five (5) of Southern Bell's October 30, 1992 Request and has improperly failed to consider the additional compelling arguments contained in paragraph six (6) of that same Request. Consequently, Order No. PSC-93-0388-CFO-TL should be reconsidered and Southern Bell's complete argument should be taken into consideration in making a decision regarding the proper treatment of the pertinent portions of Interrogatory Item Nos. 258 and 264.

4. The information sought to be classified as confidential pertains to individual IXC customer-specific PIU audit-related information. This information includes specific amounts recovered from individual IXCs as a result of PIU audit findings. (Request at p. 2, ¶ 6). These individual IXC-specific billing results are proprietary for compelling reasons.

5. First, as stated in Southern Bell's original Request but overlooked in the order, the Company enters into legally binding confidentiality agreements with the IXCs that it audits, and the Company is therefore under a legal obligation not to publicly disclose the individual details of such audits. These details include the amounts ultimately billed back to some of these IXCs as a result of Southern Bell finding inaccuracies in the IXCs' jurisdictional reporting of PIU. Section 364.183(3), Florida Statutes, provides that information obtained by Southern Bell pursuant to a private non-disclosure agreement is proprietary confidential business information. Further, Southern Bell will be harmed in its ability to accurately audit the IXCs without the carriers' continued voluntary cooperation in such audits. Such lack of cooperation could likely result if the IXCs knew that this sensitive information were subject to disclosure.

6. A decision denying confidentiality could lead to the inadvertent and unintended result of requiring Southern Bell to formally invoke the Commission's authority to order the IXCs to cooperate in such audits. This is so because, as stated previously in Southern Bell's Request and also overlooked in the order, the IXCs have historically been somewhat resistant in these audits. (Request at p. 3). If the Commission does not acknowledge and honor the confidentiality agreements, the result will likely be less cooperation and more litigation.

7. This, in turn, would harm Southern Bell and its ratepayers. The reason for these audits is to ensure that

Southern Bell is being properly compensated for the relative percentages of intrastate and interstate access services provided to IXCs in Florida. To the extent PIU is overstated and left undetected, Southern Bell's regulated intrastate revenues would be negatively affected, thereby causing harm to Southern Bell and ultimately its ratepayers. (Request at p. 3). This argument was also overlooked in the order.

8. Second, as discussed in Southern Bell's Request, yet not mentioned or discussed in the Prehearing Officer's order, the individual IXC-specific amounts recovered from such carriers as a result of the PIU audits (Request at page 2, ¶ 6) constitute customer-specific billing information which this Commission has historically held to be entitled to confidential classification. This Commission has consistently recognized that Southern Bell's customers' individual information is to be treated as proprietary confidential business information. Order No. 24531, issued May 14, 1991 in Docket No. 860723-TP. The information at issue in Southern Bell's current Request is similarly classified as customer-specific information. As indicated in Southern Bell's Request, but also apparently overlooked or ignored in the Order, Southern Bell has already publicly provided the total intrastate revenue effect of the combined PIU audits for the 1991 and 1992 timeframes. No legitimate purpose would be served by further public release of the amounts individually recovered from each of Southern Bell's IXC customers. To the extent similar billing information relating to other Southern Bell customers is not

DOCKETS NOS. 920260-TL, 910163-TL, 910727-TL, 900960-TL
AUGUST 5, 1993

compelled to be publicly disclosed, it would be unjust to treat the Company's IXC customers with any less consideration.

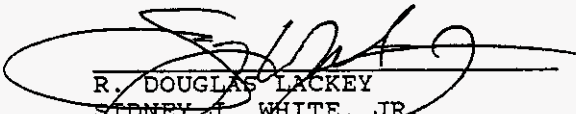
Based on the foregoing, Southern Bell moves the Prehearing Officer to reconsider those portions of Order No. PSC-93-0388-CFO-TL pertaining to the IXC customer-specific billing amounts resulting from the confidential PIU audits conducted by Southern Bell, and to find that such information is entitled to confidential classification.

Respectfully submitted this 25th day of March, 1993.

SOUTHERN BELL TELEPHONE
AND TELEGRAPH COMPANY



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DOCKETS NOS. 920260-TL, 910163-TL, 910727-TL, 900960-TL
AUGUST 5, 1993

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: December 9, 1992
Company (Formerly FPSC Docket)
Number 880069-TL))
_____)

SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION

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 Division Code, and files its Request for Confidential Classification for portions of certain Company responses to Staff's Thirteenth Set of Interrogatories dated November 4, 1992.

1. Southern Bell is filing its Request for Confidential Classification for Interrogatory Response No. 371, which contains certain information pertaining to competitive intraLATA toll services.

2. Southern Bell has appended to this Request for Confidential Classification as Attachment A a listing showing the location in the Interrogatory responses of the information designated by Southern Bell as confidential.

3. Appended hereto in an envelope designated as Attachment B are two edited copies of the Interrogatory responses with the confidential information deleted.

4. Attached as Attachment C is a sealed envelope containing copies of the Interrogatory responses with the material which is confidential and proprietary highlighted. Copies of Attachment C are not being served on the other parties in this proceeding.

5. Regarding Southern Bell's response to Interrogatory Item No. 371, this response is entitled to proprietary confidential classification because it contains the statistical distribution of Southern Bell's intraLATA toll messages by mileage band, broken down by business, residence, public and "other" categories. This information discloses usage patterns for certain classes of Southern Bell customers and shows the representative mileage for intraLATA calls made by these customers. The intraLATA toll market is a competitive arena. Competitors could use this information to selectively target their marketing strategies and pricing to appeal to key customer bases, thereby depriving Southern Bell of similar business opportunities. Thus, the disclosure of this competitive toll market information would impair Southern Bell's ability to compete in the intraLATA toll market. Section 364.183(e), Florida Statutes, expressly considers as proprietary confidential business information any information relating to competitive interests, the disclosure of which would impair the competitive business of the provider. The information contained in Southern Bell's response to Item No. 371, as more specifically described above, meets the statutory criteria, and should therefore be afforded confidential classification.

6. Southern Bell has treated and intends to continue to treat the material for which confidential classification is sought as private, and this information has not been generally disclosed.

WHEREFORE, based on the foregoing, Southern Bell moves the Prehearing Officer to enter an order declaring the information

DOCKETS NOS. 920260-TL, 910163-TL, 910727-TL, 900960-TL
AUGUST 5, 1993

described above and contained in the indicated portions of the
attachments to be confidential proprietary business information,
and thus not subject to public disclosure.

Respectfully submitted this 9th day of December, 1992.

SOUTHERN BELL TELEPHONE
AND TELEGRAPH COMPANY


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DOCKETS NOS. 920260-TL, 910163-TL, 910727-TL, 900960-TL
AUGUST 5, 1993

ATTACHMENT A
Location of Proprietary Material

Southern Bell's Response to Item 371 of
Staff's Thirteenth Set of Interrogatories

The material found on lines 30 through 42 on page 1 of Southern Bell's response to Item No. 371 in Staff's Thirteenth Set of Interrogatories is considered by Southern Bell to be proprietary and confidential in that this material deals competitive intraLATA toll market information.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Comprehensive review of)
the revenue requirements and)
rate stabilization plan of)
SOUTHERN BELL TELEPHONE AND)
TELEGRAPH COMPANY.)

DOCKET NO. 920260-TL

In Re: Show cause proceedings)
against SOUTHERN BELL TELEPHONE)
AND TELEGRAPH COMPANY for)
misbiling customers.)

DOCKET NO. 900960-TL

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

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
ORDER NO. PSC-93-0415-CFO-TL
ISSUED: 03/17/93

ORDER DENYING REQUEST FOR CONFIDENTIAL
TREATMENT OF DOCUMENT NO. 14306-92

On December 9, 1992, BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company (Southern Bell or the Company) filed a Request for Confidential Treatment of certain information provided in response to Staff Interrogatory No. 371. The Response has been assigned Document No. 14306-92 by the Commission. The Company asserts that the material contains statistical data regarding its intraLATA toll messages by band, broken down by business, residence, public and "other" categories. The Company contends that disclosure of the material would reveal usage patterns for certain classes of its customers and shows the representative mileage for intraLATA calls made by customers. Southern Bell asserts that, armed with this information, its competitors in the intraLATA toll market could selectively target marketing strategies to appeal to key customer bases, thereby depriving Southern Bell of similar business opportunities. Thus, the Company contends that the material is proprietary confidential business information pursuant to Section 364.183(3)(e), Florida Statutes.

ORDER NO. PSC-93-0415-CFO-TL
DOCKETS NOS. 920260-TL, 900960-TL, 910163-TL, 910727-TL
PAGE 2

Florida law provides, in Section 119.01, Florida Statutes, that documents submitted to governmental agencies shall be public records. This law derives from the concept that government should operate in the "sunshine." The only exceptions to this law are specific statutory exemptions and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision.

Accordingly, pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, it is the Company's burden to show that the material submitted is qualified for specified confidential classification. Rule 25-22.006 provides that the Company may fulfill its burden by demonstrating that the documents fall into one of the statutory examples set forth in Section 364.183 or by demonstrating that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

Upon review, the material is found to contain aggregate toll usage data by mileage band, and customer classification. The aggregate information is found to be of little or no use in targeting any specific market niche. Consequently, disclosure would not impair the competitive business of the Company. Accordingly, the Company's Request for Confidential Treatment of Document No. 14306-92 is denied.

Based upon the foregoing it is

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that the Company's December 9, 1992 Request for Confidential Treatment of Document 14306-92 is denied. It is further

ORDERED that pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, any confidentiality granted to the documents specified herein shall expire eighteen (18) months from the date of issuance of this Order in the absence of a renewed request for confidentiality pursuant to Section 364.183. 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.

DOCUMENT NUMBER-DATE

02939 MAR 17 93

FPSC-RECORDS/REPORTING

DOCKETS NOS. 920260-TL, 910163-TL, 910727-TL, 900960-TL
AUGUST 5, 1993

ORDER NO. PSC-93-0415-CFO-TL
DOCKETS NOS. 920260-TL, 900960-TL, 910163-TL, 910727-TL
PAGE 3

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 17th day of MARCH, 1993.


SUSAN F. CLARK, Commissioner and
Prehearing Officer

(S E A L)

CWM

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 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.

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, 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 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

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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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AUGUST 5, 1993

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: December 21, 1992
Company (Formerly FPSC Docket)
Number 880069-TL))
_____)

SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION

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 Division Code, and files its Request for Confidential Classification for the Company's Supplemental Response to Item No. 371 of Staff's Thirteenth Set of Interrogatories dated November 4, 1992.

1. Southern Bell is filing its Request for Confidential Classification for its Supplemental Response to Interrogatory Item No. 371 because the response contains certain information pertaining to competitive intraLATA toll services.

2. Southern Bell has appended to this Request for Confidential Classification as Attachment A a listing showing the location in the Interrogatory responses of the information designated by Southern Bell as confidential.

3. Appended hereto in an envelope designated as Attachment B are two edited copies of the Interrogatory responses with the confidential information deleted.

4. Attached as Attachment C is a sealed envelope containing copies of the Interrogatory responses with the material which is confidential and proprietary highlighted. Copies of Attachment C are not being served on the other parties in this proceeding.

5. Regarding Southern Bell's Supplemental Response to Interrogatory Item No. 371, this response is entitled to proprietary confidential classification because it contains the numerical distribution of Southern Bell's intraLATA toll messages by mileage band, broken down by business, residence, public and "other" categories. This information discloses usage patterns for certain classes of Southern Bell customers and shows the representative mileage for intraLATA calls made by these customers. The intraLATA toll market is a competitive arena. Competitors could use this information to selectively target their marketing strategies and pricing to appeal to key customer bases, thereby depriving Southern Bell of similar business opportunities. Thus, the disclosure of this competitive toll market information would impair Southern Bell's ability to compete in the intraLATA toll market. Section 364.183(e), Florida Statutes, expressly considers as proprietary confidential business information any information relating to competitive interests, the disclosure of which would impair the competitive business of the provider. The information contained in Southern Bell's Supplemental Response to Interrogatory Item No. 371, as more specifically described above, meets the statutory criteria, and should therefore be afforded confidential classification.

6. Southern Bell has treated and intends to continue to treat the material for which confidential classification is sought as private, and this information has not been generally disclosed.

WHEREFORE, based on the foregoing, Southern Bell moves the Prehearing Officer to enter an order declaring the information

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described above and contained in the indicated portions of the
attachments to be confidential proprietary business information,
and thus not subject to public disclosure.

Respectfully submitted this 21st day of December, 1992.

SOUTHERN BELL TELEPHONE
AND TELEGRAPH COMPANY

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ATTACHMENT A
Location of Proprietary Material

Southern Bell's Supplement to its response to Item 371 of
Staff's Thirteenth Set of Interrogatories

The mileage band data found in these attached reports, on pages 1 through 15 as indicated below, are considered by Southern Bell to be proprietary and confidential in that this material reveals competitive intraLATA toll market information.

Columns A through G, pages 1, 2, 4, 5, 7, 8, 10, 11, 13, 14

Columns A through d, pages 3, 6, 9, 12, 15

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Comprehensive review of) DOCKET NO. 920260-TL
the revenue requirements and)
rate stabilization plan of)
SOUTHERN BELL TELEPHONE AND)
TELEGRAPH COMPANY.)

In Re: Show cause proceedings) DOCKET NO. 900960-TL
against SOUTHERN BELL TELEPHONE)
AND TELEGRAPH COMPANY for)
misbiling customers.)

In Re: Petition on behalf of) DOCKET NO. 910163-TL
Citizens of the State of Florida)
to initiate investigation into)
integrity of SOUTHERN BELL)
TELEPHONE AND TELEGRAPH)
COMPANY'S repair service)
activities and reports.)

In Re: Investigation into) DOCKET NO. 910727-TL
SOUTHERN BELL TELEPHONE AND) ORDER NO. PSC-93-0411-CFO-TL
TELEGRAPH COMPANY'S compliance) ISSUED: 03/17/93
with Rule 25-4.110(2), F.A.C.,)
Rebates.)

ORDER DENYING REQUEST FOR CONFIDENTIAL
CLASSIFICATION OF DOCUMENT NO. 14757-92

On December 21, 1992, BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company (Southern Bell or the Company) filed a Request for Confidential Classification of specified information contained in its Supplemental Response to Staff's Interrogatory No. 371. The Response has been assigned Document No. 14757 by the Commission.

Florida law provides, in Section 119.01, Florida Statutes, that documents submitted to governmental agencies shall be public records. This law derives from the concept that government should operate in the "sunshine." The only exceptions to this law are specific statutory exemptions and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision.

Accordingly, pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, it is the

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Company's burden to show that the material submitted is qualified for specified confidential classification. Rule 25-22.006 provides that the Company may fulfill its burden by demonstrating that the documents fall into one of the statutory examples set forth in Section 364.183 or by demonstrating that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

To this end, Southern Bell asserts that the material contains the numerical distribution of its intraLATA toll messages by mileage band; broken down by business, residence, public and "other" categories. The Company asserts that disclosure of the information would reveal usage patterns for certain classes of the Company's customers and the representative mileage for intraLATA calls made by these customer classes. Southern Bell contends that the intraLATA market is competitive and that armed with this information its competitors could selectively target marketing strategies to appeal to key customer bases, thereby depriving Southern Bell of similar business opportunities. The Company contends that this would impair its ability to compete in the intraLATA toll market and that, therefore, the material at issue is entitled to confidential classification pursuant to Section 364.183(3)(e), Florida Statutes.

Upon review, the material at issue is found to include neither route specific data nor market specific data. The aggregate toll usage data by mileage band and customer classification is found not to be useful for targeting any specific market niche. Therefore, disclosure will not impair the ability of the Company to compete in the intraLATA toll market. Thus, it does not qualify as proprietary confidential business information pursuant to Section 364.183 (3)(e). Accordingly, the Company's Request for Confidential Classification of Document No. 14757-92 is denied.

Based upon the foregoing, it is

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company's Request for Confidential Classification of Document No. 14757-92 is denied. It is further

ORDERED that pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, any confidentiality granted to the documents specified herein shall expire eighteen (18) months from the date of

DOCUMENT NUMBER-DATE

02935 MAR 17 88

FPC-RECORDS/REPORTING

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ORDER NO. PSC-93-0411-CFO-TL
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PAGE 3

issuance of this Order in the absence of a renewed request for confidentiality pursuant to Section 364.183. 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 the Florida Public Service Commission, this 17th day of March, 1993.


SUSAN F. CLARK, Commissioner
and Prehearing Officer

(S E A L)

CWM

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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 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.

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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DOCKETS NOS. 920260-TL, 900960-TL, 910163-TL, 910727-TL
PAGE 4

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 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.

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AUGUST 5, 1993

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: December 30, 1992
Company)
_____)

SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION

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 Division Code, and files its Request for Confidential Classification for portions of certain Company responses to Staff's Sixteenth Set of Interrogatories dated November 25, 1992.

1. Southern Bell is filing its Request for Confidential Classification for Interrogatory Response No. 427(a), which contains certain information pertaining to competitive intraLATA toll services.

2. Southern Bell has appended to this Request for Confidential Classification as Attachment A a listing showing the location in the Interrogatory response of the information designated by Southern Bell as confidential.

3. Appended hereto in an envelope designated as Attachment B are two edited copies of the Interrogatory response with the confidential information deleted.

4. Attached as Attachment C is a sealed envelope containing a copy of the Interrogatory response with the material which is confidential and proprietary highlighted. Copies of Attachment C are not being served on the other parties in this proceeding.

5. Regarding Southern Bell's response to Interrogatory Item No. 427(a), this response is entitled to proprietary confidential

DOCKETS NOS. 920260-TL, 910163-TL, 910727-TL, 900960-TL
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classification because it contains statistical distributions of Southern Bell's intraLATA toll revenues by mileage band and time of day. This information discloses usage patterns and demand levels for certain classes of Southern Bell customers and shows the corresponding mileage for intraLATA calls made by these customers. The intraLATA toll market is a competitive arena. Competitors could use this information to selectively target their marketing strategies and pricing to appeal to key customer bases, thereby depriving Southern Bell of similar business opportunities. Thus, the disclosure of this competitive toll market information would impair Southern Bell's ability to compete in the intraLATA toll market. Section 364.183(e), Florida Statutes, expressly considers as proprietary confidential business information any information relating to competitive interests, the disclosure of which would impair the competitive business of the provider. The information contained in Southern Bell's response to Item No. 427(a), as more specifically described above, meets the statutory criteria, and should therefore be afforded confidential classification.

6. Southern Bell has treated and intends to continue to treat the material for which confidential classification is sought as private, and this information has not been generally disclosed.

WHEREFORE, based on the foregoing, Southern Bell moves the Prehearing Officer to enter an order declaring the information described above and contained in the indicated portions of the attachments to be confidential proprietary business information, and thus not subject to public disclosure.

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Respectfully submitted this 30th day of December, 1992.

SOUTHERN BELL TELEPHONE
AND TELEGRAPH COMPANY

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ATTACHMENT A

FPSC DOCKET 920260-TL

FPSC STAFF'S 16TH SET OF INTERROGATORIES

EXPLANATION FOR PROPRIETARY INFORMATION

This information reflects projected revenues and, therefore, demand for Southern Bell's intraLATA MTS service. If this information were given to a competitor he would know how much demand exists for this Southern Bell 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. It also relates to competitive services provided by the company. 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.

LOCATION OF THE PROPRIETARY INFORMATION

Southern Bell's response to Item 427(a) of Staff's Sixteenth Set of Interrogatories.

<u>PAGE NO.</u>	<u>LINE NOS./COL. NO.</u>
3	6-11, 17, Cols. A-H; 13-16, Cols. A,C,E,G
4	6-11, Cols. A-H; 13-16, Cols. A,C,E,G
5	6-11, 17 Cols. A-H; 13-16, Cols. A,C,E,G
6	6-11, Cols. A-H; 13-16, Cols. A,C,E,G
7	6-11, 17 Cols. A-H; 13-16, Cols. A,C,E,G
8	6-11, Cols. A-H; 13-16, Cols. A,C,E,G
9	3-5, Cols. B-D
10	5-7, 9-11, 13-15 Cols. B-C
11	5-7, 9-11, 13-15 Cols. B-C
12	5-7, 9-11, 13-15 Cols. B-C

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Comprehensive review of) DOCKET NO. 920260-TL
the revenue requirements and)
rate stabilization plan of)
SOUTHERN BELL TELEPHONE AND)
TELEGRAPH COMPANY.)

In Re: Show cause proceedings) DOCKET NO. 900960-TL
against SOUTHERN BELL TELEPHONE)
AND TELEGRAPH COMPANY for)
misbilling customers.)

In Re: Petition on behalf of) DOCKET NO. 910163-TL
Citizens of the State of Florida)
to initiate investigation into)
integrity of SOUTHERN BELL)
TELEPHONE AND TELEGRAPH)
COMPANY's repair service)
activities and reports.)

In Re: Investigation into) DOCKET NO. 910727-TL
SOUTHERN BELL TELEPHONE AND) ORDER NO. PSC-93-0414-CFO-TL
TELEGRAPH COMPANY's compliance) ISSUED: 03/17/93
with Rule 25-4.110(2), F.A.C.,)
Rebates.)

ORDER DENYING REQUEST FOR CONFIDENTIAL
CLASSIFICATION OF DOCUMENT NO. 15023-92

On December 30, 1992, BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company (Southern Bell or the Company) filed a Request for Confidential Classification of specified information provided in response to Staff's Interrogatory No. 427(a). The Response has been assigned Document No. 15023-92 by the Commission.

Florida law provides, in Section 119.01, Florida Statutes, that documents submitted to governmental agencies shall be public records. This law derives from the concept that government should operate in the "sunshine." The only exceptions to this law are specific statutory exemptions and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision.

Accordingly, pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, it is the Company's burden to show that the material submitted is qualified

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PAGE 2

for specified confidential classification. Rule 25-22.006 provides that the Company may fulfill its burden by demonstrating that the documents fall into one of the statutory examples set forth in Section 364.183 or by demonstrating that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

To this end, Southern Bell asserts that the material at issue reveals the Company's intraLATA toll revenues by mileage band and time of day. The Company argues that this translates to usage patterns and demand levels. The Company contends that its competitors in the intraLATA toll market could use this information to selectively target key customer bases thereby impairing Southern Bell's ability to compete in the intraLATA toll market. Southern Bell asserts that this valuable information is the result of the Company's research and represents a trade secret. The Company argues that its competitors should not be allowed to benefit from research which was performed at Southern Bell's expense. For the foregoing reasons, Southern Bell concludes that the material is proprietary confidential business information pursuant to Section 364.183, Florida Statutes.

Upon review, the material at issue is found to contain aggregate data regarding MTS, Saver Service, WATS and 800 Service for 1990, 1991 and 1992. The aggregate data is grouped by mileage band and time of day. No customer or route specific information is included. Because the data is aggregated, disclosure will provide Southern Bell's competitors with no meaningful information with which to target strategies or prices to specific customer bases. Moreover, Southern Bell's MFR Schedule E-1a, filed in the instant Rate Case Docket, reveals analogous data for 1991. Indeed, the Company has previously disclosed this type of price-out data in various forms in numerous proceedings. As the Company has failed to distinguish the material at issue from information which it has routinely disclosed, the material is found not to qualify as proprietary confidential business information under any theory pursuant to Section 364.183, Florida Statutes. Therefore, the Company's Request for Confidential Classification of Document No. 15023-92 is denied.

Based on the foregoing, it is

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company's December 30, 1992, Request for

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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ORDER NO. PSC-93-0414-CFO-TL
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Confidential Classification of Document No. 15023-92 is denied. It is further

ORDERED that pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, any confidentiality granted to the documents specified herein shall expire eighteen (18) months from the date of issuance of this Order in the absence of a renewed request for confidentiality pursuant to Section 364.183. 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 Susan F. Clark, as Prehearing Officer, this 17th day of March, 1993.



SUSAN F. CLARK, Commissioner and
Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

ORDER NO. PSC-93-0414-CFO-TL
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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, 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 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.

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DOCKETS NOS. 920260-TL, 910163-TL, 910727-TL, 900960-TL
AUGUST 5, 1993

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Comprehensive Review of the Revenue Requirements and Rate Stabilization Plan of Southern Bell Telephone and Telegraph Company)	Docket No. 920260-TL
)		
In re: Show cause proceeding against Southern Bell Telephone and Telegraph Company for misbilling customers)	Docket No. 900960-TL
)		
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
)		
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: March 29, 1993

SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S
MOTION FOR REVIEW OF ORDER NO. PSC-93-0411-CFO-TL,
PSC-93-0414-CFO-TL, and PSC-93-0415-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), Florida Administrative Code, its Motion for Review of Order Nos. PSC-93-0411-CFO-TL, PSC-93-0414-CFO-TL, and PSC-93-0415-CFO-TL issued on March 17, 1993 by the Prehearing Officer in the above-referenced dockets.

1. On December 9, 1992, Southern Bell filed a Request for Confidential Classification ("Request") for certain information submitted in its responses to Staff's Interrogatory Item No. 371. On December 21, 1992, Southern Bell filed a Request for certain

DOCKETS NOS. 920260-TL, 910163-TL, 910727-TL, 900960-TL
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information submitted in its Supplemental response to Staff's Interrogatory Item No. 371. On March 17, 1993, the Prehearing Officer issued Order Nos. PSC-93-0415-CFO-TL and PSC-93-0411-CFO-TL, respectively, denying the Company Requests.

2. On December 30, 1992, Southern Bell filed a Request for certain information submitted in its responses to Staff's Interrogatory No. 427(a). On March 17, 1992, the Prehearing Officer issued Order No. PSC-93-0414-CFO-TL denying the Company's Request.

3. In her Orders, the Prehearing Officer concludes that the documents in dispute do not qualify as proprietary confidential business information under § 364.183, Florida Statutes because, as aggregate data, no market specific information is contained therein. Thus, the Prehearing Officer found that disclosure would provide no meaningful information with which competitors could target specific customer bases.

4. The information sought to be classified as confidential in these Requests pertains to intraLATA toll revenues and/or messages segregated by mileage band, time of day and/or class of customer. This information is proprietary for compelling reasons. Therefore, Southern Bell respectfully submits, on the basis of the pertinent facts and the controlling law cited herein, that the Orders include mistakes of law and fact such that the full Florida Public Service Commission ("Commission") should review and reverse this decision.

5. First, there can be no dispute that disclosure of this data would allow Southern Bell's competitors to determine the most lucrative areas of Southern Bell's intraLATA toll business. The documents subject to these orders contain an analysis of customers by class or mileage band or both as well as corresponding toll revenues. By a review of these data, Southern Bell's competitors could, with a minimum of effort, determine customer demand profiles and identify those specific markets of Southern Bell that have heavy customer demand. After having determined the most lucrative markets, a competitor could then target these markets in an effort to siphon off business from Southern Bell. Moreover, the competitor would be able to make its strategic decision based largely on market research done by Southern Bell. Obviously, such an advantage should not be afforded to Southern Bell's competitors.

6. The Prehearing Officer's finding that these documents contain no market specific information is clearly incorrect. The information contained in these documents includes the number of messages, minutes, revenue, and/or mileage bands utilized by different market segments in the arena of intraLATA toll services. There can be no question but that Southern Bell's competitors, of which there are many, would be delighted to obtain such data. Under § 364.183(e), Florida Statutes, this information is clearly proprietary confidential business information. Section 364.183(e) states that any information relating to competitive interest, the disclosure of which would

impair the competitive business of the provider, is considered proprietary confidential business information. The information contained in Southern Bell's original response to Item No. 371, its Supplement thereto, and Item No. 427(a), as more specifically described above, meets the statutory criteria and should therefore be afforded confidential classification.

7. Moreover, this Commission has previously held the exact same type of information to be proprietary confidential business information under § 364.183, Florida Statutes. In Order No. 19775, dated August 9, 1988, the Prehearing Officer therein granted Southern Bell's Request for Confidential Classification with regard to Staff's First Set of Interrogatories, Item No. 1 in Docket No. 880069-TL. A review of the response to Item No. 1 shows that it contained exactly the same type of information as contained in Item Nos. 371 and 427(a) in the instant matter. The prehearing officer at that time found that the information so produced was detailed information concerning competitive services and thus qualified as proprietary confidential business information pursuant to § 364.183, Florida Statutes.

8. While the Commission has the power to modify and depart from pre-existing orders, it may do so only when new evidence is presented which warrants such a change. See Peoples Gas System, Inc. vs. Mason, 187 So.2d 335 (Fla. 1966) and Reedy Creek Utilities Co. vs. Florida Public Service Commission, 418 So.2d 249 (Fla. 1982). Changed conditions and circumstances arising out of the rapid development of the state may justify or require

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changes or modifications of orders made by the Commission. See Florida Motor Lines Corp. v. Douglas, 4 So.2d 856 (Fla. 1941).

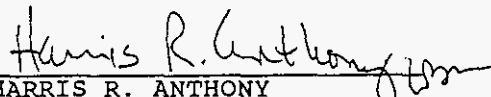
9. In this instance, however, there is absolutely no rationale either contained in or which could be set forth in the orders sought to be reviewed which would justify a departure from the findings in Order No. 19775 that this type of information is proprietary confidential business information under § 364.183, Florida Statutes. To the contrary, the relevant changes merely reinforce the Commission's 1988 ruling. The intraLATA toll market has grown even more competitive since 1988 and thus, even stronger reasons for nondisclosure exist today. Interestingly enough, both MCI and the Florida Interexchange Carriers Association appear to agree with Southern Bell as to the competitiveness of this type of information. These parties also filed Requests for Confidential Classification concerning similar information.

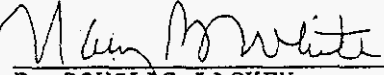
WHEREFORE, Southern Bell respectfully requests the entry of an order by this Commission reversing the Orders of the Prehearing Officer, sustaining Southern Bell's assertion of confidentiality concerning the information provided in response to Items 371, its Supplement, and 427(a) of Staff's First Set of Interrogatories.

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AUGUST 5, 1993

Respectfully submitted this 29th day of March, 1993.

SOUTHERN BELL TELEPHONE
AND TELEGRAPH COMPANY


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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORDER NO. PSC-93-0318-PCO-TL
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In Re: Comprehensive review of) DOCKET NO. 920260-TL
the revenue requirements and)
rate stabilization plan of)
SOUTHERN BELL TELEPHONE AND)
TELEGRAPH COMPANY.)

In Re: Show cause proceedings) DOCKET NO. 900960-TL
against SOUTHERN BELL TELEPHONE)
AND TELEGRAPH COMPANY for)
misbiling customers.)

In Re: Petition on behalf of) DOCKET NO. 910163-TL
Citizens of the State of Florida)
to initiate investigation into)
integrity of SOUTHERN BELL)
TELEPHONE AND TELEGRAPH)
COMPANY's repair service)
activities and reports.)

In Re: Investigation into) DOCKET NO. 910727-TL
SOUTHERN BELL TELEPHONE AND) ORDER NO. PSC-93-0318-PCO-TL
TELEGRAPH COMPANY's compliance) ISSUED: 03/01/93
with Rule 25-4.110(2), F.A.C.,)
Rebates.)

The Prehearing Officer heard arguments on this matter at the January 15, 1993, Prehearing Conference. OPC's Motion was granted to the extent that Southern Bell was required to designate a person or persons who can respond to questions regarding the truthfulness of the Company's quality of service reports. The Company was given two weeks to provide this information.

At the January 29, 1993, Motion Hearing, Southern Bell stated that Mr. Wayne Tubaugh would be the person available during the hearing process to respond to questions about the Schedule 11 Reports. The Company stated that Mr. Tubaugh has verified the input data with each of the individuals who compiled it.

At the February 12, 1993, Motion Hearing, OPC stated that he had deposed Mr. Tubaugh and did not believe that Mr. Tubaugh was competent to testify on behalf of the corporation that the reports are truthful. OPC requested that Southern Bell be ordered to file written testimony attesting to the truthfulness (or lack thereof) of their Schedule 11 Reports.

Upon consideration, Southern Bell shall not be required by the Commission to file such testimony. The concerns OPC raises go to the ultimate burden of proof in this case. To the extent Mr. Tubaugh or the other witnesses proffered by Southern Bell are incompetent to resolve issues related to the veracity of the filing or the Company's quality of service, then Southern Bell will have failed to meet its burden of proof. Whether, in fact, this will occur remains to be determined through the hearing process. Accordingly, OPC's oral motion shall be denied.

Based on the foregoing, it is

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that the Office of Public Counsel's oral motion described herein is denied for the reasons set forth in the body of this order.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 1st day of March, 1993.


SUSAN F. CLARK, Commissioner
and Prehearing Officer

(S E A L)
ABG

ORDER ON ORAL MOTION

On September 11, 1992, the Office of Public Counsel (OPC) filed a Motion to Require Sworn Testimony by BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone & Telegraph Company (Southern Bell or the Company) Sponsoring its Quality of Service Reports (Motion). Southern Bell filed its Opposition to OPC's Motion (Response) on September 18, 1992. In its Motion, OPC requests that Southern Bell be required to file sworn testimony to sponsor its quality of service reports (Schedule 11 Reports) submitted to the Commission since January 1, 1988. In its Response, Southern Bell states that Mr. Joseph P. Lacher and Mr. A. M. Lombardo, both of whom have prefiled testimony, are available for examination about the Company's quality of service. In addition, Southern Bell asserts that OPC can obtain specific information through the use of appropriate discovery. Finally, Southern Bell disputes the need to provide an additional witness beyond the nine witnesses who have prefiled their direct testimonies in Docket No. 920260-TL.

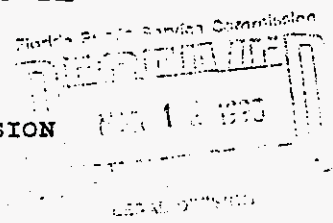
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057

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AUGUST 5, 1993



BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Comprehensive Review of the)
Revenue Requirements and Rate)
Stabilization Plan of Southern)
Bell Telephone and Telegraph)
Company)

Docket No. 920260-TL
Date filed: March 11, 1993

MOTION FOR REVIEW BY THE FULL COMMISSION
OF THE PREHEARING OFFICER'S ORDER ON ORAL MOTION

The Citizens of Florida ("Citizens"), by and through Jack Shreve, Public Counsel, move the full Commission to review and reverse order no. PSC-93-0318-PCO-TL issued March 1, 1993.

1. In the original "incentive plan" proceeding a number of parties expressed concern that providing Southern Bell additional incentives to maximize profits might affect quality of service. The Commission addressed this by stating:

"There is a concern that the company might improve earnings over the short run by letting quality of service slip. In order to discourage and detect such actions, our staff will continue its ongoing review of service quality as required by Commission rules and will consider more expanded service audits if any significant slippage in quality is detected. The Commission will be notified if service quality significantly deteriorates during the course of this plan, or if Commission rules concerning service standards are violated. The Commission may then consider imposing a penalty on Southern Bell." Order 20162 at page 26 (emphasis added).

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2. On September 11, 1992 we filed a motion requesting the Commission to order Southern Bell Telephone and Telegraph Company ("Southern Bell") to file sworn testimony in this docket sponsoring its quality of service reports submitted to the Commission since January 1, 1988.

3. Commission rule 25-4.0185 requires Southern Bell to file quarterly reports with this Commission showing whether it is complying with Commission rules governing quality of service. These reports include schedule 11 of form PSC/CMU 28, showing the extent to which the company is complying with Commission quality of service standards.

4. The prehearing officer only partly granted our motion to require sworn testimony by Southern Bell sponsoring its quality of service reports. The prehearing officer orally required Southern Bell to designate a person or persons who could respond to questions regarding the truthfulness of its quality of service reports. In response, Southern Bell designated Mr. Wayne Tubaugh as that person.

5. Mr. Tubaugh is prepared to state that, to his knowledge, the reports are truthful. The problem with his testimony is that he is not in a position to know whether the reports are truthful. The person designated by Southern Bell specifically has not reviewed numerous sources of information bearing on the

truthfulness of these reports. His testimony is therefore worthless and allows Southern Bell to avoid its responsibility to state under oath whether the reports are truthful.

6. Mr. Tubaugh, for example, hasn't read the depositions taken by the Citizens and the staff of this Commission regarding falsification of repair reports. Tubaugh deposition, February 12, 1993, at 5-6. Had he done so, he would have known about some inaccuracies in the reports. Nor has he seen the internal audit prepared by the company concerning its schedule 11 reports. *id.* Although we have not yet seen that audit, we know that the audit had significant adverse findings. How could Southern Bell legitimately offer a witness to sponsor its quality of service reports when that witness hasn't even seen an audit of those reports containing significant adverse findings?

7. Additionally, Mr. Tubaugh hasn't seen various statements taken by Southern Bell in connection with its investigation of repair activities and reports (*id.* at 14-18) and hasn't taken any action to confirm or deny statements about the reports contained in the testimony of the Attorney General's witness Mike Maloy (*id.* at 31).

8. Since Southern Bell's designated witness is incompetent to state whether its quality of service reports are truthful, at a motion hearing held on February 12, 1993, we moved the prehearing

officer to require Southern Bell to file written testimony attesting to the truthfulness (or lack thereof) of its schedule 11 reports. The prehearing officer's order denied that motion.

9. The prehearing officer's order allows Southern Bell to avoid its responsibility to tell this Commission under oath whether the reports it submits to this Commission on quality of service are truthful. The prehearing officer states that it is a matter of "burden of proof." The real question, however, is whether this Commission will affirmatively require Southern Bell to file truthful reports.

10. Regulatory reports filed with the Commission are public records. Id. §§ 119.01 & 119.011(1). Schedule 11 reports detailing the customer service quality indicators must be filed with the Commission quarterly. Fla. Admin. Code R. 25-4.0185. Beside the Commission's own responsibility to see that it receives truthful reports, the Commission also has an obligation to see that these records available for public inspection accurately reflect Southern Bell's quality of service. The Commission should order Southern Bell to state under oath whether the reports are truthful and not allow Southern Bell to side step the issue by putting on a witness who is incompetent to state whether or not the reports are truthful.

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WHEREFORE, the Citizens request the full Commission to reverse order no. PSC-93-0318PCO-TL issued March 1, 1993, and require Southern Bell to file competent, sworn testimony in this docket attesting to the truthfulness of its quality of service reports submitted to the Commission since January 1, 1988.

Respectfully submitted,

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AUGUST 5, 1993

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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
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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: March 18, 1993

SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S
RESPONSE AND OPPOSITION TO PUBLIC COUNSEL'S
MOTION FOR REVIEW BY THE FULL COMMISSION OF THE
PREHEARING OFFICER'S ORDER ON ORAL MOTION

COMES NOW, BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company ("Southern Bell" or "Company"), pursuant to Rule 25-22.038(2)(b), Florida Administrative Code, and files its Response and Memorandum in Opposition to the Office of Public Counsel's ("Public Counsel") Motion for Review of the Prehearing Officer's Order on Oral Motion, and states the following:

1. On September 11, 1992, Public Counsel filed a Motion to Require Sworn Testimony by Southern Bell regarding the Company's quality of service reports. Southern Bell opposed this motion on the basis that Southern Bell was presenting testimony by Joseph

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P. Lacher and A. M. Lombardo, both of whom were qualified to discuss issues concerning Southern Bell's quality of service.

2. Public Counsel's motion was argued on January 15, 1993. At that time, the Prehearing Officer required Southern Bell to designate an individual who could respond to questions regarding the Schedule 11 (quality of service) reports. See Transcript of Prehearing Conference, January 15, 1993, p. 22. On January 29, 1993, Southern Bell advised Public Counsel and the Prehearing Officer that Wayne Tubaugh was the designated witness. At that time, Southern Bell explained the basis for Mr. Tubaugh's testimony. Public Counsel subsequently deposed Mr. Tubaugh and was apparently not satisfied that Mr. Tubaugh was the witness Public Counsel desired. Public Counsel thereupon made an Oral Motion at the February 12, 1993 Prehearing Conference that Southern Bell be required to file written testimony of someone other than Mr. Tubaugh regarding the veracity of Southern Bell's Schedule 11 reports. On March 1, 1993, the Prehearing Officer entered Order No. PSC-93-03185-PCO-TL denying Public Counsel's Oral Motion. Public Counsel has taken exception to this order and filed the instant Motion for Review by the Full Commission.

3. The standard of review adopted by the Florida Public Service Commission ("Commission") requires Public Counsel to demonstrate that the Prehearing Officer committed an error of fact or law in her decision such that it requires the full Commission to reconsider her decision. Diamond Cab Co. of Miami v. King, 146 So.2d 889 (Fla. 1962). The motion may not be used

as an opportunity to reargue matters previously considered merely because Public Counsel, as the losing party, disagrees with the judgment or order. Id. at 891.

4. No error of fact or law has been demonstrated by Public Counsel to warrant a reversal on reconsideration of the Prehearing Officer's Order. In this Motion, Public Counsel is merely complaining that Southern Bell has not provided a witness acceptable to Public Counsel. In her Order, the Prehearing Officer correctly noted that the concerns raised by Public Counsel, to the extent they may have any validity at all, which Southern Bell disputes, went to the burden of proof regarding the veracity of the Company's quality of service reports. Southern Bell submits that it has carried this burden with the testimony of Mr. Tubaugh.

5. When Southern Bell named Mr. Tubaugh as the appropriate witness to testify to its quality of service reports, the Prehearing Officer specifically addressed Public Counsel's concerns about the competency of the witness by directing Southern Bell to have Mr. Tubaugh make inquiries of persons who provide the underlying data for the Schedule 11 reports in order to verify that the information so provided was correct. See Transcript of Prehearing Conference, January 15, 1993, p. 22. As stated by Mr. Tubaugh in his deposition, he contacted the employees who provide the information for the Schedule 11 reports and queried them as to the truthfulness and accuracy of that information. See Deposition of Wayne Tubaugh, February 12, 1993,

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pp. 7, 9-10 and 12-13. Thus, Public Counsel's assertion that Mr. Tubaugh is incompetent to know whether the reports are truthful is simply incorrect.


6. Mr. Tubaugh can attest to the actions he took to determine the truthfulness and accuracy of the information contained in the Schedule 11 reports. He will be subject to full cross-examination on this issue by all parties, including Public Counsel. The Commission will be in a position to give Mr. Tubaugh's testimony the appropriate weight and determine whether Southern Bell has demonstrated the accuracy and truthfulness of its Schedule 11 reports. No other testimony concerning this issue should or need be required from Southern Bell.

WHEREFORE, Southern Bell requests that the Commission deny Public Counsel's Motion for Review of Order No. PSC-93-0318-PCO-TL and affirm the order of the Prehearing Officer.

Respectfully submitted this 18th day of March, 1993.

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