

ORIGINAL
FILE COPY

SIDNEY J. WHITE, JR.
General Attorney

Southern Bell Telephone
and Telegraph Company
Suite 400
150 South Monroe Street
Tallahassee, Florida 32301
(404) 529-5094

September 1, 1993

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

RE: Docket No. 920260-TL

Dear Mr. Tribble:

Enclosed are an original and fifteen copies of Southern Bell Telephone and Telegraph Company's Response and Objection to Public Counsel's Forty-Third Request for Production of Documents and Motion for Temporary Protective Order. Please file this document in the above-captioned docket.

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

Sincerely,

Sidney J. White, Jr.
Sidney J. White, Jr. (e)

- ACK
- AFA 1
- APP 1
- CAF
- CMU
- CTR
- ENG
- LEG 1 W/TM
- LIN 6
- OPC
- RCH #
- SEC 1
- W'S
- ITS

Enclosures

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

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MS

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09465 SEP-1 93

FPSC-RECORDS/REPORTING

CERTIFICATE OF SERVICE

Docket No. 920260-TL

Docket No. 900960-TL

Docket No. 910163-TL

Docket No. 910727-TL

I HEREBY CERTIFY that a copy of the foregoing has been
furnished by United States Mail this 1st day of September, 1993
to:

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

Tracy Hatch
Division of Legal Services
Florida Public Svc. Commission
101 East Gaines Street
Tallahassee, FL 32399-0863

Joseph A. McGlothlin
Vicki Gordon Kaufman
McWhirter, Grandoff & Reeves
315 South Calhoun Street
Suite 716
Tallahassee, FL 32301-1838
atty for FIXCA

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

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

Kenneth A. Hoffman
Messer, Vickers, Caparello,
Madsen, Lewis & Metz, PA
Post Office Box 1876
Tallahassee, FL 32302
atty for FPTA

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

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

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

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

Laura L. Wilson, Esq.
c/o Florida Cable Television
Association, Inc.
Post Office Box 10383
310 North Monroe Street
Tallahassee, FL 32302
atty for FCTA

Chanthina R. Bryant
Sprint Communications Co.
Limited Partnership
3065 Cumberland Circle
Atlanta, GA 30339

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

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

Benjamin H. Dickens, Jr.
Blooston, Mordkofsky,
Jackson & Dickens
2120 L Street, N.W.
Washington, DC 20037
Atty for Fla Ad Hoc

C. Everett Boyd, Jr.
Ervin, Varn, Jacobs, Odom
& Ervin
305 South Gadsen Street
Post Office Drawer 1170
Tallahassee, Florida 32302
atty for Sprint

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

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

Donald L. Bell, Esq.
104 East Third Avenue
Tallahassee, FL 32303
Atty for AARP

Michael B. Twomey
Gerald B. Curington
Department of Legal Affairs
Room 1603, The Capitol
Tallahassee, FL 32399-1050

Mr. Douglas S. Metcalf
Communications Consultants,
Inc.
631 S. Orlando Ave., Suite 250
P. O. Box 1148
Winter Park, FL 32790-1148

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

Mr. Michael Fannon
Cellular One
2735 Capital Circle, NE
Tallahassee, FL 32308

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

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

Stan Greer
Division of Communications
Florida Public Svc. Commission
101 East Gaines Street
Tallahassee, FL 32399-0863

Sidney J. White, Jr.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL
FILE

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

Docket No. 920260-TL

Filed: September 1, 1993

SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S
RESPONSE AND OBJECTIONS TO PUBLIC COUNSEL'S
FORTY-THIRD REQUEST FOR PRODUCTION OF DOCUMENTS
AND MOTION FOR A TEMPORARY PROTECTIVE ORDER

COMES NOW, BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company ("Southern Bell" or "Company"), and files, (1) pursuant to Rules 25-22.034, Florida Administrative Code, Rule 1.350, Florida Rules of Civil Procedure, its Responses and Objections to the Office of Public Counsel's ("Public Counsel") Forty-Third Request for Production of Documents dated July 20, 1993 and 2) pursuant to Rule 25-22.006(5)(c), Florida Administrative Code, its Motion for Temporary Protective Order.

MOTION FOR TEMPORARY PROTECTIVE ORDER

Some of the documents that will be delivered to or made available for review by Public Counsel contain proprietary, confidential business information that should not be publicly disclosed. Thus, pursuant to Rule 25-22.006(5)(c), Florida Administrative Code, Southern Bell moves the Prehearing Officer to issue a Temporary Protective Order exempting these documents from 119.07(1), Florida Statutes. These documents contain, among other things, detailed financial accounting information, vendor specific contractual and pricing information, financial information relating to non-regulated operations, employee

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specific information unrelated to compensation, duties, qualifications or responsibilities, and other proprietary confidential business information. Such information is specifically included as proprietary confidential business information pursuant to § 364.183, Florida Statutes. If Public Counsel subsequently notifies Southern Bell that any of the proprietary documents are to be used in a proceeding before the Commission, Southern Bell will, in accordance with Rule 25-22.006, Florida Administrative Code, file a detailed motion for protective order specifically addressing each of the documents identified.

GENERAL RESPONSE AND OBJECTIONS

1. Southern Bell objects to Public Counsel's proposed "Instruction" relating to details of privileged documents. To the extent a document responsive to any of the requests is subject to an applicable privilege, some of the information requested by Public Counsel would be similarly privileged and therefore not subject to discovery. Notwithstanding this objection, Southern Bell will provide a general description of any material withheld due to an applicable privilege.

2. With regard to Public Counsel's definition of "document" or "documents", Southern Bell has made a diligent, good faith attempt to locate documents responsive to the scope of Public Counsel's individual requests for documents.

3. Southern Bell objects to Public Counsel's definition of "you" and "your" as well as the definition of "BellSouth." It

appears that Public Counsel, through its definition of these words, is attempting to obtain discovery of information in the possession, custody, or control of entities that are not parties to this docket. Requests for production of documents may be directed only to parties, and any attempt by Public Counsel to obtain discovery from non-parties should be prohibited. See Rule 1.340, Florida Rules of Civil Procedure; Broward v. Kerr, 454 So.2d 1068 (4th D.C.A. 1984).

4. Southern Bell does not believe it was Public Counsel's intent to require Southern Bell to produce again the same documents previously produced in other dockets, but to the extent it does, Southern Bell objects on the basis that such a request would be unduly burdensome, oppressive and unnecessary, and for these reasons is prohibited.

5. Southern Bell objects to the specific time and place designated by Public Counsel for the production of documents for the reasons that the designation is not reasonable, but has no objection to producing the documents that are responsive and to which no other objection is made, at a mutually agreed upon time and place.

6. The following Specific Responses are given subject to the above-stated General Responses and Objections.

SPECIFIC RESPONSES

7. With respect to Request No. 648, Southern Bell objects to this request on the basis that it is unduly burdensome and oppressive. Responsive documents could reside in the files of

almost any or all persons with accounting responsibility within BellSouth Telecommunications. Notwithstanding this objective, Southern Bell will produce responsive Headquarters documents that are in its possession, custody, or control and make these documents available for Public Counsel's review in Atlanta, Georgia at a mutually agreeable time and place. Finally, Southern Bell has previously produced responsive documents in response to Public Counsel's Thirty-Second Request for Production of Documents, Request No. 437.

8. With respect to Request No. 649, Southern Bell will produce responsive documents that are in its possession, custody, or control at a mutually convenient time and place subject to the Motion for Temporary Protective Order set forth above.

9. With respect to Request No. 650, Southern Bell will produce responsive documents that are in its possession, custody, or control at a mutually convenient time and place. Also, with respect to the portion of this request framed as an interrogatory, Southern Bell will respond to such items in its response to Item No. 749 of Public Counsel's Thirty-Fourth Set of Interrogatories.

10. With respect to Request No. 651, Southern Bell objects to this request on the basis that it is overly burdensome and oppressive and calls for the production of proprietary confidential business information in the form of vendor specific contractual and pricing information. Over seven file drawers of information exist relating to this request. Notwithstanding

these objections, Southern Bell will produce responsive invoices and tracking reports subject to the Motion for Temporary Protective Order set forth above. Southern Bell further objects to itemizing the requested expenses, since Public Counsel can accomplish this task as easily as Southern Bell during its review of the responsive documents. Southern Bell also objects to creating a document which does not currently exist listing the payee, amount, date and purpose of the advertising expenses, since this information can be readily obtained from Public Counsel's review of the responsive documents.

11. With respect to Request No. 652, Southern Bell will produce responsive documents that are in its possession, custody, or control at a mutually convenient time and place. Also, with respect to the portion of this request framed as an interrogatory, Southern Bell will respond to such items in its response to Public Counsel's Thirty-Fourth Set of Interrogatories, Item No. 754.

12. With respect to Request No. 653, Southern Bell objects to this request for a "special computer printout" on the basis that it calls for the creation of a document that does not currently exist, and that it is unduly burdensome and oppressive as currently framed. Read literally, this request would require Southern Bell to analyze massive numbers of its journalized accounting entries in an attempt to comply with the request. While liberal construction is to be given to the rules of discovery, requests to produce must not be so excessive so as to

be unduly burdensome to the party asked to produce documents. Argonaut v. Peralta, 358 So.2d 232 (Fla. 3d DCA 1978). Public Counsel can perform the requested analysis as easily as Southern Bell could based on its own review of the same journal entries. If Public Counsel desires to do this analysis, Southern Bell would be amenable to making the transaction journal available for Public Counsel's review on Company premises at a mutually agreeable time and place for such purposes. Finally, the information sought by Public Counsel would contain proprietary confidential business information and Southern Bell would make this information available to Public Counsel subject to the Company's Motion for Temporary Protective Order set forth above.

13. With respect to Request No. 654, Southern Bell will produce responsive documents that are in its possession, custody, or control at a mutually convenient time and place subject to the Motion for Temporary Protective Order set forth above. With respect to the interrogatories contained in this request, Southern Bell will respond to these items in its response to Public Counsel's Thirty-Fourth Set of Interrogatories, Item No. 822.

14. With respect to Request No. 655, Southern Bell has no documents responsive to this request.

15. With respect to Request No. 656, Southern Bell objects to this request on the basis that it seeks the production of proprietary confidential business information in the form of information related to non-regulated operations. This

information is expressly included as proprietary confidential business information in Section 364.183(3)(e), Florida Statutes. Notwithstanding this objection, Southern Bell will produce responsive documents that are in its possession, custody, or control at a mutually convenient time and place, subject to the Motion for Temporary Protective Order set forth above.

16. With respect to Request No. 657, Southern Bell will produce responsive documents that are in its possession, custody, or control at a mutually convenient time and place.

17. With respect to Request No. 658, Southern Bell will produce responsive documents that are in its possession, custody, or control at a mutually convenient time and place. Southern Bell objects to the portion of this request that requests that Southern Bell create documents further explaining in narrative form the workpaper documents to be produced in response to this request. Such a request is an improper use of a request for production of documents, and is therefore objectionable. Also, see documents produced by Southern Bell in its response to Public Counsel's Forty-Sixth Request for Production of Documents, Request No. 713.

18. With respect to Request No. 659, Southern Bell objects to this request on the basis that it seeks the production of proprietary confidential business information in the form of financial and other information pertaining to potential new services that may be provided by Southern Bell in 1993 and 1994. This information is expressly included as proprietary

confidential business information in Section 364.183(3)(e), Florida Statutes. With respect to the interrogatories contained in this request, Southern Bell will respond to these items in its response to Public Counsel's Thirty-Fourth Set of Interrogatories, Item No. 880. Notwithstanding this objection, Southern Bell will produce responsive documents that are in its possession, custody, or control at a mutually convenient time and place, subject to the Motion for Temporary Protective Order set forth above. Also, see documents produced by Southern Bell in its response to Public Counsel's Forty-Sixth Request for Production of Documents, Request No. 713.

19. With respect to Request No. 660, Southern Bell will produce responsive documents that are in its possession, custody, or control at a mutually convenient time and place. Also, see documents produced by Southern Bell in its response to Public Counsel's Forty-First Request for Production of Documents, Request No. 638.

20. With respect to Request No. 661, Southern Bell will produce responsive documents that are in its possession, custody, or control at a mutually convenient time and place. Also, see documents produced by Southern Bell in its response to Public Counsel's Forty-Sixth Request for Production of Documents, Request No. 713.

21. With respect to Request No. 662, Southern Bell objects to this request on the basis that it seeks the production of proprietary confidential business information in the form of

detailed accounting information including information on nonregulated operations. This information is expressly included as proprietary confidential business information in Section 364.183(3)(e), Florida Statutes. Notwithstanding this objection, Southern Bell will produce responsive documents that are in its possession, custody, or control at a mutually convenient time and place, subject to the Motion for Temporary Protective Order set forth above. Also, see documents produced by Southern Bell in its response to Public Counsel's Thirty-Second Request for Production of Documents, Request No. 637.

22. With respect to Request No. 663, Southern Bell will produce responsive documents that are in its possession, custody, or control at a mutually convenient time and place.

23. With respect to Request No. 664, Southern Bell objects to this request on the basis that it seeks the production of proprietary confidential business information in the form of vendor lists of suppliers of Southern Bell products and services. This information is expressly included as proprietary confidential business information in Section 364.183(3)(d) and (e), Florida Statutes. Notwithstanding this objection, Southern Bell will produce responsive documents that are in its possession, custody, or control at a mutually convenient time and place, subject to the Motion for Temporary Protective Order set forth above.

24. With respect to Request No. 665, Southern Bell will produce responsive documents that are in its possession, custody,

or control at a mutually convenient time and place. Also, see documents produced by Southern Bell in its response to Public Counsel's Forty-First Request for Production of Documents, Request No. 639.

Respectfully submitted this 1st day of September, 1993.

SOUTHERN BELL TELEPHONE
AND TELEGRAPH COMPANY

Harris R. Anthony
HARRIS R. ANTHONY (17)
c/o Marshall M. Criser
400 - 150 South Monroe Street
Tallahassee Florida 32301
(305) 530-5555

R. Douglas Lackey
R. DOUGLAS LACKEY (17)
SIDNEY J. WHITE, JR.
4300-675 West Peachtree Street
Atlanta, Georgia 30375
(404) 529-5094