

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 910163-TL

FILED: July 21, 1992

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IN RE: Petition on behalf of CITIZENS )  
OF THE STATE OF FLORIDA to initiate )  
investigation into integrity of SOUTHERN )  
BELL TELEPHONE & TELEGRAPH COMPANY'S )  
repair service activities and reports. )



DEPOSITION OF: CLINTON G. SMITH

TAKEN AT THE INSTANCE OF: Office of Public Counsel

PLACE: Southern Bell Offices  
903 West University Avenue  
Gainesville, Florida 32601

TIME: Commenced at 1:10 p.m.  
Concluded at 1:34 p.m.

DATE: Thursday, July 30, 1992

REPORTED BY: Marie C. Gentry  
Court Reporter

COPY

## 1 APPEARANCES:

2 CHARLES J. BECK, ESQUIRE, Associate Public Counsel,  
3 Office of Public Counsel, c/o The Florida Legislature, 111 W.  
4 Madison Street, Room 812, Tallahassee, Florida 32399-1400.  
5 Telephone No. (904) 488-9330.

6  
7 TRACY HATCH, ESQUIRE, Chief, Bureau of Communications,  
8 Division of Legal Services, Florida Public Service  
9 Commission, 101 E. Gaines Street, Tallahassee, Florida  
10 32399-0863, Attorney for Florida Public Service Commission.  
11 Telephone No. (904) 487-2740.

12  
13 R. DOUGLAS LACKEY, ESQUIRE, and NANCY B. WHITE, ESQUIRE,  
14 4300 Southern Bell Center, 675 West Peachtree Street,  
15 Atlanta, Georgia 30375, Attorneys for Southern Bell.  
16 Telephone No. (404) 529-5387.

17  
18 TERRILL BOOKER, Engineer, Bureau of Service Evaluation,  
19 Division of Communications, Florida Public Service  
20 Commission, 101 East Gaines Street, Tallahassee, Florida  
21 32399-0866. Telephone No. (904) 488-1280.

22  
23 RONALD D. SURRENCY, ESQUIRE, Barton, Davis and Fernandes,  
24 200 N.E. 1st Street, Gainesville, Florida 32601, Attorneys  
25 for Clinton G. Smith. Telephone No. (904) 376-4671.

I N D E X

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Page No.

ERRATA SHEET	4
STIPULATION	5
AFFIDAVIT OF DEPONENT	23
CERTIFICATE OF OATH	24
CERTIFICATE OF REPORTER	25

WITNESS

CLINTON G. SMITH	
Examination by Mr. Beck	6

- - -

1

2

3

4

5

6

7

S T I P U L A T I O N

8

9

10

IT IS STIPULATED that this deposition was

11

taken pursuant to notice in accordance with the applicable

12

Florida Rules of Civil Procedure; that objections, except as

13

to the form of the question, are reserved until hearing in

14

this cause; and that reading and signing was not waived.

15

IT IS ALSO STIPULATED that any off-the-record

16

conversations are with the consent of the deponent.

17

18

19

20

21

22

23

24

25

1 CLINTON G. SMITH,  
2 appeared as a witness and, after being duly sworn by the  
3 court reporter, testified as follows:

4 - - -

5 MR. LACKEY: Mr. Smith, my name is Doug Lackey.  
6 I'm an attorney representing BellSouth  
7 Telecommunications, Inc., and Southern Bell in this  
8 proceeding.

9 Before we begin the questions there are a couple  
10 of preliminary matters that we need to take care of.

11 This lady is a court reporter and she's taking  
12 down everything I'm saying and she's going to take  
13 down the questions that Mr. Beck or Mr. Hatch ask you  
14 and your answers as well, and at some juncture what  
15 she is taking down may be reduced to writing and at  
16 that time you'll have the right to review the  
17 deposition and make any corrections that need to be  
18 made and to sign it. It's my understanding that you  
19 do not wish to waive that right; is that correct?

20 THE WITNESS: That's correct, yes, sir.

21 MR. LACKEY: The second issue is an instruction  
22 that I have to give you and it's somewhat complicated  
23 here in Gainesville, so I will go through it and, if  
24 you don't understand it, I'll be happy to explain it in  
25 any more detail that you need.

1           You're going to be asked a series of questions in  
2 this deposition and it may be that one or more of them  
3 will call for information which you may have learned as  
4 a result of an investigation conducted by Southern Bell  
5 at the instigation of the Legal Department. If such a  
6 question is asked, I will object to the question on the  
7 grounds that it calls for privileged information and I  
8 will instruct you not to answer the question. However,  
9 with such questions it's possible that you might have  
10 personal knowledge obtained other than as a result of  
11 the investigation that might be responsive to such a  
12 question. In that case, I would like to request you,  
13 subject to your Counsel's advice, to answer those  
14 questions as fully and completely as you can based on  
15 your own personal knowledge.

16           It is also possible that a question will be  
17 asked and I will not object but you realize that in  
18 order to respond to the question you'll have to reveal  
19 something that you learned as a result of the  
20 investigation that I made reference to a moment ago.  
21 And, if that is the case, what you need to do is turn  
22 to your attorney or to me and say we need to stop and  
23 talk for a moment and let me see what the information  
24 is and then I'll handle it from there.

25           Now, the point of all of this is that the

1 investigation, which I'm going to talk about it a  
2 little bit more in a minute, that we are referring to,  
3 we have asserted as privileged and I don't want you  
4 through my inadvertence to reveal information to  
5 Mr. Beck or Mr. Hatch that we consider to be  
6 privileged.

7 This is all complicated here in Gainesville  
8 because there were two investigations. The first  
9 investigation was done back in October, November,  
10 December of 1990, perhaps even into January of '91  
11 and it involved out-of-service reports. Perhaps  
12 you'll recognize the investigation if I tell you that  
13 it was involving certain Test OKs that were listed  
14 as out of service. That investigation was conducted  
15 by the Security Department of the company and we do  
16 not consider it to be privileged, and if you know  
17 anything about it and Mr. Beck or Mr. Hatch asks you  
18 anything that would call for information that you had  
19 learned through that investigation, please feel free  
20 to answer, again subject to your own attorney's  
21 instructions.

22 The investigation that I'm concerned with is  
23 one that occurred subsequent, after the investigation  
24 at the end of 1990, and if you were involved in it  
25 it would have involved interviews or meetings with

1 attorneys representing Southern Bell and perhaps  
2 security people as well. Okay?

3 THE WITNESS: Yes, sir.

4 MR. LACKEY: Is my instruction clear? Do you  
5 need any help?

6 THE WITNESS: I believe it's pretty clear.

7 MR. LACKEY: If at any time you have a question  
8 or there's an issue that you're not sure about, please  
9 just say so and we'll be happy to take care of it.

10 THE WITNESS: No problem.

11 MR. SURRENCY: Just to clarify your instruction,  
12 when you said security people as well, security people  
13 by themselves was a different matter?

14 MR. LACKEY: Yes, there were two investigations.  
15 The first one was just run by the Security Department.

16 MR. SURRENCY: I understand that. But as to  
17 Mr. Smith talking about any instances after October of  
18 '90 and January of '91, after that time frame where he  
19 met solely with the security personnel would be  
20 something that you all aren't concerned about?

21 MR. LACKEY: Well, I have to be a little  
22 circumspect in answering that. It's my understanding  
23 that Mr. Smith had a discussion regarding the  
24 investigation that I'm concerned with that there would  
25 have been an attorney present as well as perhaps



1 someone from the Security Department. But if he has  
2 had an interview with the Security Department where  
3 he doesn't believe there was an attorney present, we  
4 may need to go off and talk about it and let me see if  
5 I can establish which investigation it was a part of.

6 MR. SURRENCY: That's a good guideline on that.  
7 If there's anything having to do with that area with  
8 just a security person, we'll talk about that.

9 MR. LACKEY: And, again, it's not my place to  
10 tell you but I will anyway since I'm doing the talking,  
11 if Mr. Beck or Mr. Hatch asks you a question that's  
12 not clear, you don't understand, just tell them so and  
13 they'll rephrase it. They are doing a lot of that.

14 - - -

15 EXAMINATION

16 BY MR. BECK:

17 Q Mr. Smith, my name is Charlie Beck.

18 A Yes, sir.

19 Q I'm with the Office of Public Counsel.

20 A Yes, sir.

21 Q And I'm going to start off. Others may have some  
22 questions after I'm finished.

23 Could you please state your name?

24 A Clinton, C-l-i-n-t-o-n, G. Smith.

25 Q Are you employed by Southern Bell?

1 A Yes, sir.

2 Q What position do you hold?

3 A Currently I'm an assistant manager over I&M  
4 network.

5 Q That's installation and maintenance?

6 A Yes, sir.

7 Q How long have you held that position?

8 A It will be two years January 1st.

9 Q What position did you hold before that?

10 A I was the installation control supervisor in the  
11 maintenance center.

12 Q How long did you hold that job?

13 A I had that job for approximately, I think, two  
14 years.

15 Q In jobs before that have you been involved in the  
16 installation and maintenance center also?

17 A Yes, sir. I worked in the installation and  
18 maintenance center in the load control environment for three  
19 years.

20 Q

21

22

23 A Yes, sir.

24 Q Was that in about March of this year, if you  
25 recall?

1           A        I can't remember the specific date. I mean, I have  
2 a copy of it, but it was in March.

3           Q        Do you recall what they told you during the  
4 meeting?

5           A

6  
7           Q

8           A

9           Q

10  
11          A

12          Q

13          A

14          Q

15          A

16          Q

17  
18          A

19          Q

20  
21          A

22          C

23          A

24

25

1	Q
2	A
3	
4	
5	
6	
7	Q
8	A
9	
10	
11	Q
12	
13	A
14	Q
15	A
16	
17	Q
18	
19	A
20	
21	
22	
23	Q
24	
25	A



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q

A

Q

A

Q

A

Q

A

MR. SURRENCY: Do we need to discuss it?

THE WITNESS: Yes.

MR. BECK: Okay.

(Off the record.)

A

1 Perry, general manager, and also Charlie Cuthbertson,  
2 personnel, when they came over here and pulled selected  
3 managers that work in the installation and maintenance  
4 control center in this room and flashed up on an overhead  
5 projector the outlining areas of Gainesville where an  
6 out-of-service base condition had been padded.

7 Q Did they tell you how it had been padded?

8 A Yes, sir. They actually showed it on an overhead  
9 projector.

10 Q How was it they showed you that it was padded?

11 A That some individual had created out-of-service  
12 trouble reports going down the phone directory, one right  
13 after the other, creating a trouble report and then closing  
14 it out a minute later.

15 Q And in that meeting I guess there were a number of  
16 managers?

17 A There was approximately eight to ten managers.

18 Q

19

20 A Yes, sir.

21 Q

22

23

24

25 A It's just that, you know, -- to the best of my



1  
2 Q Do you have any knowledge of persons backing up  
3 times on repair reports to a time other than the cleared  
4 time?

5 A No, sir.

6 Q It used to be a practice that you would back up  
7 times for the cleared time, would you not, on reports?

8 A Your outside field services technicians, and I'm  
9 not completely positive, I'd have to do a little more  
10 research, they have -- especially, we're going back two  
11 years. For instance, if you go out on a customer trouble  
12 report and it's an out-of-service condition and you clear  
13 this condition and you have additional work to perform at  
14 this residence, you would continue on with your work and they  
15 would have the availability with their computerized access  
16 terminal called a CAT terminal where they can show service  
17 restored, service cleared and then off a certain trouble at a  
18 specific time, which would not be incorporated in the  
19 out-of-service time parameters.

20 Q Have you ever suggested to anyone that they back up  
21 the time on an out-of-service report to some time other than  
22 the cleared time?

23 A Absolutely not.

24 Q Have you ever heard of anybody doing that?

25 A I have heard of it, yes, sir.



1 Q Here in Gainesville?

2 A I've heard it throughout the whole  
3 BellSouth/Southern Bell arena.

4 Q Could you be more specific about what you have  
5 heard?

6 A No, because I don't have specifics. I've never  
7 seen specifics. I've never specifically seen anyone do it.  
8 I just know that there is the capability of doing it within  
9 the system.

10 Q Have you heard rumors to the effect that it's been  
11 done in the system? I'm trying to get a grip on exactly what  
12 it is you heard.

13 A I can't give you any specifics other than the fact  
14 that yes, it can be achieved in the mechanized system. But,  
15 no, sir, I do not know of any specifics.

16 Q Are you familiar with the Public Service Commission  
17 rule regarding that 95 percent of out-of-service troubles  
18 should be cleared before 24 hours?

19 A Yes, sir.

20 Q Are there certain types of codes that can be used  
21 to exclude reports from that requirement?

22 A Yes, sir.

23 Q Could you give me an example?

24 A Lightning.

25 Q Do you have any knowledge of persons using exclude

1 codes such as lightning in instances where it didn't apply to  
2 the situation?

3 A No, sir.

4 Q Have you heard of that ever being done?

5 A Then again I have heard, yes, it has been done, but  
6 I have never been involved personally or seen any specific  
7 instances where it has happened other than the -- and this  
8 doesn't really address the exclusion code as much as it does  
9 the padding the base. I saw -- Mr. Randy Perry and  
10 Cuthbertson both on the overhead projector showed us. I  
11 mean, that's the only specifics I've seen.

12 Q They showed you the results of somebody going  
13 through the phone book?

14 A Correct; exactly.

15 Q Did they show you any other types of incorrect  
16 entries or improper entries on out of service during that  
17 meeting?

18 A No, sir, I don't believe so. At that point in time  
19 they zeroed right in on the padding of the out-of-service  
20 base in the outlining CDOs, Micanopy, Hawthorne, Keystone,  
21 those --

22 Q Have you ever told or suggested to anyone that they  
23 use an exclude code such as lightning in instances where it  
24 didn't apply to the repair?

25 A Absolutely not.

1 Q Are you familiar with CON Codes?

2 A Yes, sir, I am.

3 Q Do you have any knowledge of CON Codes being used  
4 in instances where customers did not ask for a later repair  
5 date?

6 A No, sir.

7 Q Have you ever heard of that being used on repair  
8 reports that way?

9 A I have heard of it, yes, sir.

10 Q In what context did you hear of it?

11 A Just conversations on the -- you know, it's built  
12 into the system. I mean, the availability is there, but I  
13 don't have any specifics.

14 Q Have you discussed it with anyone that you can  
15 recall?

16 A Oh, yes, sir.

17 Q Who have you discussed it with?

18 A Discussed as far as a training or a facility type  
19 thing. Same thing with the out of service.

20 Q I don't mean just generally how to use the CON Code  
21 or how to use it properly. Have you discussed or heard from  
22 anybody about using the CON Code in places where it should  
23 not have been used?

24 A Absolutely not.

25 I would like to make one comment going back into my

1 background. I gave you approximately five or six years back.  
2 Prior to that I was on the Southern Bell staff out of  
3 Jacksonville which was an implementation group of methods and  
4 procedures and that's -- I mean, I'm knowledgeable of a lot  
5 of the indices and the PSC requirements and things of this  
6 nature and I have done training at different points in time  
7 in my career but that was only in the positive sense within  
8 the legal parameters.

9 Q Do you have any knowledge of persons using Test  
10 OKs, or statusing Test OK service reports as out-of-service  
11 reports?

12 A No, sir.

13 Q Has anybody mentioned to you that they had any  
14 knowledge about persons doing that here in Gainesville?

15 A Statusing something as a Test OK?

16 Q Statusing a report that tested OK --

17 A As an out-of-service condition?

18 Q Correct.

19 A No, sir.

20 Q Do you have any knowledge of persons excluding  
21 repair reports that were about to miss their commitment and  
22 then reopening them as employee-generated reports?

23 A No, sir.

24 Q Do you have any knowledge of persons statusing  
25 affecting service reports as out-of-service reports?



(Whereupon, at 1:34 o'clock p.m., the deposition was concluded.)

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

AFFIDAVIT OF DEPONENT

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

This is to certify that I, CLINTON G. SMITH, have read the foregoing transcription of my testimony, Page 6 through 22, given on July 30, 1992, in Docket No. 910163-TL, and find the same to be true and correct, with the exceptions, and/or corrections, if any, as shown on the errata sheet attached hereto.

\_\_\_\_\_

CLINTON G. SMITH

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_

NOTARY PUBLIC

State of \_\_\_\_\_

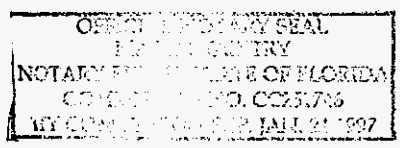
My Commission Expires:

1  
2  
3  
4 F L O R I D A )  
5 :  
6 COUNTY OF CLAY)

7 I, the undersigned authority, certify that  
8 Clinton G. Smith personally appeared before me and  
9 was duly sworn.

10  
11 WITNESS my hand and official seal this 1<sup>ST</sup> day  
12 of October, 1993.

13  
14 Marie C. Gentry  
15 MARIE C. GENTRY  
16 Notary Public - State of Florida  
17 My Commission No. CC251746  
18 Expires: January 21, 1997





STATE OF FLORIDA )  
 :  
COUNTY OF CLAY )

CERTIFICATE OF REPORTER

I, Marie C. Gentry, Court Reporter,  
DO HEREBY CERTIFY that I was authorized to and did  
stenographically report the foregoing deposition of CLINTON  
G. SMITH;

I FURTHER CERTIFY that this transcript, consisting  
of 25 pages, constitutes a true record of the testimony given  
by the witness.

I FURTHER CERTIFY that I am not a relative,  
employee, attorney or counsel of any of the parties, nor am I  
a relative or employee of any of the parties' attorney or  
counsel connected with the action, nor am I financially  
interested in the action.

DATED this 1<sup>st</sup> day of October, 1993.

Marie C. Gentry  
Marie C. Gentry  
Court Reporter  
Telephone No. (904) 264-2943

STATE OF FLORIDA )  
 :  
COUNTY OF CLAY )

The foregoing certificate was acknowledged before  
me this 1<sup>st</sup> day of October, 1993,  
by Marie C. Gentry, who is personally known to me.

Patricia H. Vierengel  
Notary Public - State of Florida

**PATRICIA H. VIERENGEL  
NOTARY PUBLIC STATE OF FLORIDA  
MY COMMISSION EXPIRES 6/21/97  
COMM. # GC 28627**

