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November 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. 900960-TL [REDACTED]

Dear Mr. Tribble:

Enclosed please find an original and fifteen copies of Southern Bell Telephone and Telegraph Company's Request for Confidential Classification, which we ask that you file in the 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 to the parties shown on the attached Certificate of Service.

Sincerely yours,  
*J. Phillip Carver*  
J. Phillip Carver (PW)

Enclosures

cc: All Parties of Record  
A. M. Lombardo  
Harris R. Anthony  
R. Douglas Lackey

**CERTIFICATE OF SERVICE**

**Docket No. 920260-TL**

**Docket No. 910163-TL**

**Docket No. 910727-TL**

**Docket No. 900960-TL**

I HEREBY CERTIFY that a copy of the foregoing has been  
furnished by United States Mail this *1<sup>st</sup>* day of *Nov.*, 1993

to:

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J. Phillip Carver (AW)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Show cause proceeding )  
against Southern Bell Telephone )  
and Telegraph Company for )  
misbilling customers. )

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Docket No. 900960-TL

Filed: November 1, 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 Motion for Confidential Classification and Permanent Protective Order and states as grounds in support thereof the following:

1. The Office of Public Counsel ("Public Counsel") issued a Notice of Deposition in the above-referenced docket in order to take the depositions of numerous Southern Bell employees on August 30, through September 2, 1993 in Jacksonville, Gainesville, Daytona Beach, Merritt Island, and Fort Pierce, Florida. The depositions of Southern Bell employees Martha Powell and Elizabeth McKenzie that were taken pursuant to this notice have been transcribed and were received by Southern Bell on October 11, 1993.

2. During these depositions numerous questions were asked and answered that entailed the disclosure of information regarding Southern Bell employees that may relate to the matters at issue in this docket. Some of this employee-related information is entitled to confidential classification.

DOCUMENT NUMBER-DATE

11824 NOV-28

FILED-RECORDS/REPORTING

3. Southern Bell filed on October 11, 1993, its Notice of Intent to Seek Confidential Classification of the information contained in these depositions. Accordingly, Southern Bell's Request for Confidential Classification is due under Rule 25-22.006(3)(a), Florida Administrative Code, on or before November 1, 1993.

4. Southern Bell has filed as Attachment "A" a listing of the specific pages and lines of each deposition that contain proprietary confidential information, which has been correlated so that the page and line are "identified with the specific justification proffered in support of the classification of such material". Rule 25-22.006(4)(c). Southern Bell has also filed a highlighted version of the depositions in a sealed container, which is marked as Attachment "B." Finally, Southern Bell has filed two redacted copies of the depositions as Attachment "C."

5. Southern Bell seeks confidential treatment of the employee information described below. This information is clearly confidential and proprietary under Florida Statutes, Section 364.183(f), which provides that "proprietary confidential business information" includes "employee personnel information unrelated to compensation, duties, qualifications, or responsibilities."

6. In both of the above-referenced depositions, numerous questions were asked and answered that either required the disclosure of the names of certain Southern Bell employees who received some form of discipline or included facts that would

allow the identification of disciplined employees. Southern Bell seeks confidential treatment only of the specific identities of the employees disciplined. This information is clearly confidential and proprietary under Florida Statutes, § 364.183(f).

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

8. A review of these terms, in the context of § 364.183(f), Florida Statutes, reveals their meaning. "Compensation" is the amount of money or other value that an employee is paid to perform his or her job duties. "Duties" are the particular acts an employee is expected to perform as a part of his or her job. "Qualifications" are the skills, knowledge, and abilities needed to perform a particular job. Finally, "responsibilities" are those things that an employee is obliged to do as part of his or her job. These meanings are confirmed by the dictionary definition of these words. Webster's definitions of these terms are as follow:

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

9. The information that a particular employee was subject to some disciplinary action has nothing to do with the employee's qualifications or compensation. Likewise, this information is not related in a strict sense to the employee's responsibilities or with the particular employee's duties.

10. Inasmuch as this docket has already resulted in widespread publicity as to Southern Bell, it is probable that the public disclosure of the identities of these employees would also be widely published. The public disclosure of the names of employees who were disciplined would have the potential effect of subjecting them to public opprobrium and scorn. This disclosure is unnecessary where, as here, the public will have access to all pertinent information, except for the names of the employees allegedly involved.

11. Further, as to information relating to employee discipline, there is an equally compelling reason that this information should be treated as confidential. Section 364.183, Florida Statutes, provides that in addition to the specifically identified types of documents that are confidential, such as those enumerated in subsection (f), any document that, if disclosed, "would cause harm to the ratepayers or the person's or

company's business operations ... is also entitled to protection." The potential for harm to Southern Bell's business operations that would result from disclosure of the subject information is great.

12. The public disclosure of the names of disciplined employees would have a significantly deleterious effect on morale that, in turn, would serve as a practical impediment to the functioning of the Company. Those who have cooperated with the efforts of the company to police itself have done so on the well-founded assumption that the information would be handled discreetly, appropriately, and that it would result in discipline that was warranted. If Southern Bell is now forced to reveal publicly the names of the employees disciplined, then the employees who have cooperated will no doubt feel that their good faith efforts to address any problems that may have occurred have been betrayed. It is easy to see how this sense of betrayal could result in morale problems that would be both widespread and severe.

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



public ridicule, then the prospect of obtaining adequate employee cooperation to address effectively any future problems diminishes significantly.

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

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

16. This Commission can fully consider all issues pertinent to this docket, based on the information that Southern Bell has provided, which includes the names of employees disciplined. It is only the public disclosure of these employees' names that Southern Bell seeks to prevent. Southern Bell has stated that it does not object to public disclosure of the extent of the employee discipline, the type of discipline, and the number of persons disciplined. There simply is nothing to be gained by the additional, public disclosure of the identities of the particular

persons disciplined. Florida Statutes § 364.183(f) clearly provides that the names of these employees should be kept confidential. To hold otherwise will do nothing more than damage, perhaps irreparably, the reputations of individual Southern Bell employees and expose them personally to public ridicule.

17. This Commission should rule that the names of these employees shall not be publicly disclosed because this disclosure would require an inappropriately broad construction of the four exceptions to the grant of confidentiality for personnel information that is set forth in § 364.183(f).

WHEREFORE, Southern Bell requests that this Commission grant its Motion for Confidential Treatment and Permanent Protective Order.

Respectfully submitted,

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FPSC DOCKET 900960-TL  
SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY  
REQUEST FOR CONFIDENTIAL CLASSIFICATION

TRANSCRIPTS OF SEPTEMBER 1, 1993 DEPOSITIONS OF  
POWELL AND MCKENZIE

JUSTIFICATION FOR CONFIDENTIALITY REQUEST

1. This information is employee personnel information unrelated to compensation, duties, qualifications and responsibilities. As such, this information is confidential business information pursuant to Section 364.183, Florida Statutes, and is exempt from the requirement of public disclosure of Section 119.07, Florida Statutes.

The following information identified by page and line numbers is considered confidential and proprietary:

<u>DEPONENT</u>	<u>PAGE NO.</u>	<u>LINE NOS.</u>	<u>REASON PROPRIETARY</u>
POWELL	6	22,23	1
	7	1-6,11-13,15,19-22	1
	8	3,4	1
	11	18-22	1
MCKENZIE	7	17-25	1
	8	2-4	1