

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Comprehensive review of revenue requirements and rate stabilization plan of SOUTHERN BELL.)	DOCKET NO. 920260-TL
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In Re: Investigation into the integrity of SOUTHERN BELL'S repair service activities and reports.)	DOCKET NO. 910163-TL
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In Re: Investigation into SOUTHERN BELL'S compliance with Rule 25-4.110(2), F.A.C., Rebates.)	DOCKET NO. 910727-TL
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In Re: Show cause proceeding against SOUTHERN BELL for misbilling customers.)	DOCKET NO. 900960-TL
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In Re: Request by Broward Board of County Commissioners for extended area service between Ft. Lauderdale, Hollywood, North Dade and Miami.)	DOCKET NO. 911034-TL ORDER NO. PSC-93-1731-CFO-TL ISSUED: December 1, 1993
)	
)	

ORDER GRANTING IN PART AND DENYING IN PART
REQUEST FOR CONFIDENTIAL CLASSIFICATION
OF DOCUMENT NO. 1410-93

On February 4, 1993, the testimony and exhibits of Mark N. Cooper on behalf of the Office of Public Counsel (Public Counsel) were filed. The testimony and exhibits have been designated as Document No. 1410-93. In conjunction with the filing of the testimony, BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company (Southern Bell or Company) filed a Request for Confidential Classification and Request for Protective Order for certain portions of the testimony and the attached exhibits. On February 15, 1993, Public Counsel filed a response to Southern Bell's confidentiality request. As a result of the consolidation of the above referenced dockets and the resetting of the procedural schedule in this case, the testimony and exhibits

¹ Southern Bell's February 4, 1993 request for confidentiality also included requests for confidentiality of the testimony and exhibits of Earl Poucher on behalf of Public Counsel and Michael R. Maloy on behalf of the Attorney General's Office. This scope of this Order is limited to the testimony and exhibits of Mr. Cooper.

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were returned to Public Counsel on July 12, 1993. On July 14, 1993, Public Counsel resubmitted the identical testimony and exhibits "because Dr. Cooper intends to adopt that testimony and accompanying exhibits at the hearing." Despite the refiling of the testimony and exhibits, the original document number has been retained for administrative tracking purposes.

Under Section 119.01, Florida Statutes, all documents submitted to this Commission are public records. The only exceptions to this law are documents which are exempt pursuant to specific statutory terms or provisions. Moreover, under Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, the burden of demonstrating that materials qualify for confidential classification falls upon the person requesting such treatment.

Southern Bell seeks confidential treatment of several types of information under the heading of proprietary business information relating to the Company's "competitive and other environmental assessments and analyses as well as possible responses as a result of consideration of such analyses." Southern Bell argues that if the Company's competitors had access to this information, they could better focus their marketing activities to take advantage the Company's assessment of competitive alternatives. Southern Bell also seeks confidential treatment of information related to inside wire. In support, the Company argues that inside wire is an unregulated competitive business and that disclosure of this information would allow Southern Bell's competitors to unfairly obtain the Company's capital investment and profit margins which would make it easier to estimate overall costs.

In addition, Southern Bell seeks confidential classification for the social security number of a Southern Bell employee. The Company contends that this information is "employee personnel information unrelated to compensation, duties, qualifications or responsibilities" and therefore, it is "proprietary confidential business information" exempt from public disclosure by Subsection (f) of Section 364.183(3), Fla. Stat.

Having reviewed the information for which Southern Bell is requesting confidential treatment in camera, the request shall be granted in part and denied in part as described in detail below. Initially it should be noted that the Company's arguments are stated in broad and conclusory terms and fail to detail the claims of harm that are alleged. It should also be noted that a substantial amount of the information found in Mark Cooper's testimony for which the Company is requesting confidential treatment is information taken from the exhibits attached to the testimony. In numerous instances the Company has not requested

confidential treatment for the same information contained in the exhibits. Having failed to request confidential treatment for the same information found in the exhibits filed with the testimony, this information is a public record open for inspection. Hence, Southern Bell's request for confidential treatment for the same information found in the testimony is denied for the following:

<u>Page No.</u>	<u>Line No.</u>
12	18-25
13	1-7, 24, 25
14	1-4
17	2-19
19	9-18
20	3-12
21	3-10, 15-20
29	1-22
30	1-22
44	24-25
45	7-10
46	24, 25
47	11-13
49	2-9

With respect to the following:

<u>Page No.</u>	<u>Line No.</u>
18	8-19
129	27, 28, 29
130	4-10, 17, 21-27
131	6-8, 22-24
132	26-34, 36
136	5, 11, 12, 16, 20
137	8
138	5-7, 21-23

All the information on page 18 was taken verbatim from the information in Exhibit MNC-6 page 9 of 13 which is also page 136 in the unredacted file copy of the testimony and exhibits.² None of

²The pages within each of Mr. Cooper's exhibits are numbered sequentially within each exhibit but not sequentially from each previous exhibit. However, consistent Rule 25-22.006, Florida Administrative Code, Southern Bell has also numbered each page in the entire set of exhibits sequentially from the last page of the

the information on page 18, lines 8-19 has been requested to be confidential on page 136 [MCN-6, 9 of 13] except for the first sentence beginning on line 8 and ending after the number on line 9 and the first number on line 13. To the extent that no request was filed for the information on page 136, the request for the same information on page 18 is denied because it is already a public record due to the Company's failure make a request. The ruling on page 136 [MCN-6, 9 of 13] is detailed below.

The information on pages 129-138 [MCN-6, 2-11 of 13] is related to Southern Bell's strategy "to raise vertical services rates to willingness-to-pay levels over time." The information is dated 9/10/91. The Company's request is granted in part and denied in part as follows:

Page 129, lines 27-29 [MCN-6, 2 of 13] - This information consists of incremental revenue projections resulting from price increases to rates for custom calling services and inside wire services. The Company's request for this information is denied. The age and generalized nature of the information indicates that no harm to the Company's competitive activities can come from disclosure of this information.

Page 130, lines 4-10, 17, 21-27 [MCN-6, 3 of 13] - This information is related to implementation of multiple feature discount plans. The Company's request for this information is denied. Custom Calling services are regulated services. Competition in the provision of these services is negligible at best. Moreover, the age and generalized nature of the information indicates that no harm to the Company's competitive activities can come from disclosure of this information.

Page 131, lines 6-8, 22-24 [MCN-6, 4 of 13] - This information consists of custom calling service revenue enhancement projections. The Company's request for this information is denied. Custom Calling services are regulated

testimony. Southern Bell's pleading is keyed to the its page numbers. All pages numbers 72 and above refer to the exhibits. To maintain consistency between Southern Bell's pleading and the rulings herein, references to pages and lines will be directed to Southern Bell's page numbers. Since the redacted copies do not have the Southern Bell page numbers, the original exhibit and page numbers will be cross referenced in [*] to enable parties to match the rulings to the text in the redacted copies. For example: page 136, lines 5, 11, 12, 16, 20 [MCN-6, 9 of 13].

services. Competition in the provision of these services is negligible at best. Moreover, the age and generalized nature of the information indicates that no harm to the Company's competitive activities can come from disclosure of this information.

Page 132, lines 26-36 [MCN-6, 5 of 13] - This information consists of a comment on the political climate in another state related to CCS price increases. The Company's request for this information is denied. The company fails to show how disclosure of only revenue information can aid its competitors or harm the company's operations. The age and generalized nature of the information indicates that no harm to the Company's competitive activities can come from disclosure of this information.

The information on Pages 136-138 is related to Southern Bell's pricing plans for inside wire maintenance. The information is dated 7/3/91. With respect to page 136 [MCN-6, 9 of 13] the request for confidentiality for line 5 is denied because it is simply a statement of the current, as of 7/31/91, recurring rate for inside wire maintenance. It is to be presumed that to the extent the Company's competitors do not know what the Company is actually charging at any given time, Southern Bell is in no competitive danger from disclosure of its product price to such competitors. With respect to lines 11 and 12, the request is for the sentence beginning on line 11 and ending on line 12. The request is denied. The number represents a market price projection which is now more than two and one-half years old. The age of this information removes any danger that disclosure would cause any harm. The request for the information on line 16 is granted on the basis that, despite its age, it is a long term price target for other Southern Bell states and may cause competitive harm in those areas if disclosed within the projected time period. The request for the information on line 20 is limited to a specific number. The request is denied because it is simply a statement of bottom of the range of current, as of 7/31/91, recurring rates for inside wire maintenance in other states. There can be no harm from such disclosure.

The request for the information on line 8, page 137 [MCN-6, 10 of 13] is denied for the same reasons for which the request for lines 11 and 12 on page 136 was denied.

The request for the information on lines 5-7 and lines 21-23 on page 138 [MCN-6, 11 of 13] is denied. The request is for forecasted revenues for inside wire. The company fails to

show how disclosure of only revenue information can aid its competitors or harm the company's operations.

With respect to the following:

<u>Page No.</u>	<u>Line No.</u>
61	1-9
376-377	Entire Page

The information on page 61 is a verbatim extract from the information on page 376 [MCN-33 1 of 2]. The information on pages 376 and 377 [MCN-33, pages 1 and 2] is dated July 15, 1987. The request for confidentiality for this information is denied. The information describes the perceived problems from introducing a combined and repriced package consisting of inside wire and trouble isolation. There is no cost, pricing, marketing, or any other competitive data contained in this information. The age of this information makes it simply an historic note of the process of rolling out a now old service. The company has not shown how disclosure could in any way harm the company.

With respect to the following:

<u>Page No.</u>	<u>Line No.</u>
64	8-25
65	1-10
408-422	Entire Page

The information on page 64, lines 8-16 is taken from the information on page 416 [MCN-41, 9 of 15]. The information on page 64, lines 16-25 and continuing on page 65, lines 1-10 is taken from the information on page 422 [MCN-41, 15 of 15]. This document relates to Southern Bell's provision of inside wire maintenance. The Company requests confidentiality for every word and number on every page from pages 408-422 [MCN-41, 1-15]. In view of the age and nature of this document, such a request is far too broad and overreaching. The Company's request is granted in part and denied in part as follows:

Pages 408-412 [MCN-41, 1-5 of 15] - This information consists of a transmittal memo for the underlying document to various Company personnel, the title sheet for the document and descriptions of inside wire services. The Company's request is denied for this information. In view of the age

and nature of the information, the Company has failed to demonstrate how any harm could befall the Company's operations from disclosure of this information.

Pages 413-414 [MCN-41, 6-7 of 15] - The revenue and expense numbers on lines 2, 4, 17 and 19 on page 413 [MCN-41, 6 of 15] shall be treated confidential. Even though the age of this information casts some doubt as to the harm from its disclosure, these projections could still cause competitive harm if disclosed. The request is denied for the remainder of the information on pages 413-414 [MCN-41, 6 and 7 of 15]. No harm has been shown from disclosure of this information.

Pages 415-422 [MCN-41, 8-15 of 15] - This information is a continuation of the descriptions of inside wire services. The Company's request for this information is denied. Again, the age and generalized nature of the information indicates that no harm to the Company's competitive activities can come from disclosure of this information.

With respect to the following:

<u>Page No.</u>	<u>Line No.</u>
365	9

The information on page 365, line 9 [MCN-28, 1 of 3] contains the social security number of an employee of Southern Bell. It appears that the social security number of a Southern Bell employee is employee personnel information unrelated to the employee's compensation, duties, qualifications or responsibilities. Therefore, Southern Bell's request for confidential status is granted for the social security number of the Southern Bell employee.

With respect to the following:

<u>Page No.</u>	<u>Line No.</u>
368	Entire Page

The information on page 368 [MCN-29, 1 of 1] discusses a Southern Bell proposal for unbundling inside wire charges from monthly recurring rates. Since the unbundling of the inside wire charges was accomplished in 1987 this information is at least that old. The age and generalized nature of the information indicates that no harm to the Company's competitive activities can come from

disclosure of this information.

With respect to the following:

<u>Page No.</u>	<u>Line No.</u>
369-372	Entire Page

The information on pages 369-372 [MCN-30, 1-4 of 4] is a report related to inside wire service. The information is dated 6/2/87. The Company's request is denied for this information. The information is at best an historic note of some of the issues examined by the Company at the time that inside wire service was unbundled and deregulated. There is no cost or revenue information nor any projected marketing or other information that if disclosed would cause any harm to the Company's operations.

With respect to the following:

<u>Page No.</u>	<u>Line No.</u>
374-375	Entire Page

The information on pages 374-375 [MCN-32, 1-2 of 2] is a report related to grandfathering certain customers in consolidation of inside wire and trouble isolation service. The information is dated 8/4/87. The Company's request is denied for this information. This information is also an historic note of some of the issues examined by the Company at the time that inside wire service was repackaged and repriced in combination with trouble isolation. There is no cost or revenue information nor any projected marketing or other information that if disclosed would cause any harm to the Company's operations.

With respect to the following:

<u>Page No.</u>	<u>Line No.</u>
378	Entire Page

The information on page 378 [MCN-34, 1 of 1] is an internal bulletin related to grandfathering certain customers in the deregulation of inside wire service. The information is dated 10/6/87. The Company's request is denied for this information. This information is another historic note of some of the issues examined by the Company during the transition to the deregulation of inside wire service. There is no cost or revenue information

nor any projected marketing or other information that if disclosed would cause any harm to the Company's operations.

With respect to the following:

<u>Page No.</u>	<u>Line No.</u>
395-398	Entire Page

The information on pages 395-398 [MCN-39, 1-4 of 4] is a report related to marketing and promotion of inside wire service. The information is dated 10/1/90. The Company's request is granted in part and denied in part as follows:

Page 395 [MCN-39, 1 of 4] - This information is a general description of the service, market profile and promotional strategies. The Company's request for confidentiality is denied for this information except for the sentence beginning on line 24 and concluding on line 26. The age and generalized nature of the information indicates that no harm to the Company's competitive activities can come from disclosure of this information. With respect to the sentence beginning on line 24, it details specific market segments where demand for the service is greatest. Disclosure of this information could harm the Company's competitive operations.

Page 396 [MCN-39, 2 of 4] - This information is a general description of the rates for inside wire service as of 1990 as well as generalized information regarding the nature of the then pending promotions. The Company's request for confidentiality is denied for this information. The age and generalized nature of the information indicates that no harm to the Company's competitive activities can come from disclosure of this information.

Page 397 [MCN-39, 3 of 4] - This information contains estimates of revenues, demand quantities and expenses. The request is granted only for the four numbers on lines 9, the four numbers on 13 and the number at the end of line 15. These numbers reflect the revenue expense and demand information and even though dated could cause harm to the Company's competitive operations. The remaining information shall not be held confidential. The age and generalized nature of the remaining information indicates that no harm to the Company's competitive activities can come from disclosure of this information.

Page 398 [MCN-39, 4 of 4] - This information is a continuation of the information on the previous page. However, it contains no information related to revenues, demand quantities and expenses or any other information that, if disclosed, could cause harm to the Company's competitive operations. Accordingly, Company's request is denied for this information.

With respect to the following:

<u>Page No.</u>	<u>Line No.</u>
423	Entire Page

The information on page 423 [MCN-42, 1 of 1] is an announcement related to inside wire service. The information is dated 1/15/91. The Company's request is denied for this information. This information is another historic note of some of the issues examined by the Company during the transition to the deregulation of inside wire service. There is no cost or revenue information nor any projected marketing or other information that if disclosed would cause any harm to the Company's operations.

With respect to the following:

<u>Page No.</u>	<u>Line No.</u>
427	4-15

The information on page 427 [MCN-43 4 of 4] is a list of revenues and expenses from inside wire service for 1987 through 1990 for Florida. It appears that the disclosure of this information could cause harm to the Company's competitive operations through detailing the profitability of the Company's competitive inside wire operations. Accordingly, the Company's request for confidential treatment of this information is granted for the numbers on lines 4-15 on page 427 [MCN-43 4 of 4].

It is, therefore,

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. 1410-93 is hereby granted in part and denied in part as set forth in the body of this Order.

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

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.