

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Office of Public	)	DOCKET NO. 900023-TL
Counsel regarding tariff filing by	)	
Southern Bell Telephone and Telegraph	)	
Company to adjust existing custom	)	ORDER NO. 22776
calling services within authorized	)	
rate bands.	)	
<hr/>		ISSUED: 4-4-90

ORDER DENYING SOUTHERN BELL TELEPHONE AND  
TELEGRAPH COMPANY'S MOTION FOR PROTECTIVE ORDER  
AND REQUEST FOR SPECIFIED CONFIDENTIAL  
CLASSIFICATION OF DOCUMENT NO. 9484-89

In Response to Public Counsel's First Request for Production of Documents, Southern Bell has produced two studies entitled "Custom Calling Services Residence Demand Study Users and Nonusers" and "Custom Calling Service Business Demand Study Users and Nonusers" with certain portions deleted that Southern Bell asserts are irrelevant because they relate to other states or because they contain information Southern Bell states is confidential proprietary information. Therefore, Southern Bell has filed these studies with this Commission requesting specified confidential classification of the highlighted portions (the same portions that had been deleted in the studies provided Public Counsel). 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. Southern Bell has stated that this information is proprietary business information and that disclosure of it will cause the Company substantial harm by giving its market research information to its competitors. According to Southern Bell, to deny this information specified confidential classification would be tantamount to requiring Southern Bell to provide the benefits of its own market research to its competitors.

There is a presumption in the law of the State of Florida that documents submitted to governmental agencies shall be public records. The only exceptions to this presumption are the specific statutory exemptions provided in the law and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. This presumption is based on the concept that government should operate in the "sunshine." In the instant matter, the value of the

DOCUMENT NUMBER-DATE

02968 APR-4 1990

FPSC-RECORDS/REPORTING

ORDER NO. 22776  
DOCKET NO. 900023-TL  
PAGE 2

examination and utilization of the information contained in these demand studies by all parties must be weighed against the legitimate concerns of this Company regarding the disclosure of business information that it considers proprietary. It is our view that the burden to be met by one requesting specified confidential classification of documents submitted during a proceeding before this Commission is very high.

Upon review of the Company's request, we find that Southern Bell has failed to carry its burden of showing that the material submitted is qualified for specified confidential classification pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. This is because, in the provision of custom calling services, Southern Bell does not have any true competitors. Indeed, the Company's rationale for its decision to file the tariff that is the subject of this proceeding was not to allow it to respond to the prices being charged by its competitors, but to allow it to respond to the demand of its current customers for these services. Since the Company has not demonstrated that it has any competitors that could utilize this information in a manner harmful to Southern Bell, it is not appropriate to grant specified confidential classification to the highlighted portions of these documents. Therefore, Southern Bell's request for specified confidential classification of Document No. 9484-89 is hereby denied. Accordingly, these documents shall not be exempt from the requirements of Section 119.07(1), Florida Statutes.

Based on the foregoing, it is, therefore,

ORDERED by Commissioner John T. Herndon, as Prehearing Officer, that Southern Bell Telephone and Telegraph Company's request for specified confidential classification of the highlighted portions of the two documents in Document No. 9484-89 is hereby denied. Therefore, the highlighted portions of those documents shall not be kept confidential, pursuant to Section 364.183, Florida Statutes, and shall not be exempt from the requirements of Section 119.07(1), Florida Statutes. It is further

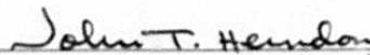
ORDERED that Public Counsel shall be provided the highlighted information contained in Document No. 9484-89 within 20 days of the issuance of this Order. It is further

ORDER NO. 22776  
DOCKET NO. 900023-TL  
PAGE 3

ORDERED that, if a protest is filed within 14 days of the date of this Order, it will be resolved by the appropriate Commission panel pursuant to Rule 25-22.006(3)(d), Florida Administrative Code. It is further

ORDERED that, if no timely protest is filed, this ruling shall become final pursuant to Rule 25-22.006(2)(f) and (3)(d), Florida Administrative Code.

By ORDER of Commissioner John T. Herndon, as Prehearing Officer, this 4th day of APRIL, 1990.

  
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JOHN T. HERNDON, Commissioner  
Prehearing Officer

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