

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-94-0165-CFO-TL ISSUED: February 10, 1994
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ORDER GRANTING IN PART AND DENYING IN PART SOUTHERN BELL'S MOTION FOR CONFIDENTIAL CLASSIFICATION FOR PORTIONS OF DOCUMENT NOS. 1897-93, 2183-93 AND 2184-93
(DOCKET NOS. 910163-TL AND 900960-TL)

This Order addresses Southern Bell's motions for confidential classification for portions of audit reports published by Staff in connection with the Southern Bell investigation dockets. Two draft audit reports and two final audit reports exist for the two Staff audits. The titles of the four highlighted versions of the audit reports filed by Southern Bell with the Commission and their respective confidential document numbers are: "Audit of Southern Bell Repair Process Controls - Draft Report - January 15, 1993" (Document No. 1897-93), "Audit of Southern Bell Non-Contact Sales Incentive Program Controls - Draft Report - January 15, 1993" (Document No. 1897-93), "Southern Bell Telephone and Telegraph Company - Repair Process Controls - February 1993" (Document No. 2183-93), and "Southern Bell Telephone and Telegraph Company Non-Contact Sales Incentive Program Controls - February 1993" (Document

DOCUMENT NUMBER-DATE

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No. 2184-93).¹ In addition to the two drafts of Staff's audit reports, Document No. 1897-93 also contains various Southern Bell audits, transmittal letters from the Southern Bell auditing department to Southern Bell managers attached to the Company's audit and management letters responding to the findings of the various audits. Southern Bell filed motions for confidential classification for Document No. 1897-93 on February 17, 1993 and Documents Nos. 2183-93 and 2184-93 on February 25, 1993.

Documents filed by telecommunications companies with the Commission are public records subject to public disclosure under Section 119.07(1), Florida Statutes, the Public Records Law. Section 119.07(3), Florida Statutes, however, exempts from public disclosure those public records that are provided by statutory law to be confidential or which are expressly exempted by general or special law. Pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Southern Bell has the burden of demonstrating that information is qualified for confidential classification. Rule 25-22.006 provides that Southern Bell may fulfill its burden of showing that the information is "proprietary confidential business information," as defined in Section 364.183 by showing that the information is one of the statutory examples set forth therein or by demonstrating disclosure of the information will cause harm to Southern Bell or its ratepayers.

In the instant motion, Southern Bell contends that the Company's internal audits, transmittal letters from the auditing department and management's response letters found in Document No. 1897-93 are exempt from public disclosure under the exemption for reports of internal auditors found in Section 364.183(3)(b), Florida Statutes. That section provides that reports of internal auditors are "proprietary confidential business information" exempt from the disclosure requirements of Florida's Public Records Law. Having examined the documents in camera, we reject Southern Bell's attempt to characterize all these documents as Company internal audits. Although we find Southern Bell has met its burden of showing that the internal audit reports are exempt from public disclosure by that provision, we conclude that the Company has not met its burden of demonstrating how transmittal letters from the

¹ The two draft audit reports collectively were assigned Document No. 1897-93.

auditing department and management responses to the audit findings would warrant confidential classification under that exemption.

Moreover, the Company claims that our Audit Staff, in its draft audit reports and final audit reports, has disclosed the substance of the Company's internal audit findings. Hence, Southern Bell contends that the information is entitled to confidential classification under Section 364.183(3)(b). Southern Bell generally characterizes the information as information derived from the Company's internal audits. However, having examined in camera the information found in Staff's audit reports for which Southern Bell seeks confidential treatment, it appears that the information actually falls into four distinct categories. These categories can be described as portions of the Staff audit reports which quote findings from the Southern Bell internal audit reports; Staff's comments on the audit findings; portions of Staff's draft audit reports which have "public record" status in the final audit reports; and portions of Staff's final audit reports which have "public record" status in the draft audit reports. The first category of information is entitled to confidential treatment under the exemption for internal audits found in Section 364.183(3)(b). The remaining categories are not exempt from public disclosure by that provision.

We find that the first category of information, namely those portions of the Staff audit reports which quote findings from the Company's audits, is entitled to confidential treatment. During the course of Staff's audit, Staff reviewed confidential versions of the Company's audit reports and incorporated some of the information found in Southern Bell's audit reports into Staff's audit reports. Since we have concluded that the Company's internal audit reports are exempt from public disclosure under Section 364.183(3)(b), we likewise grant confidential status to those portions of Staff's audit reports which quote or paraphrase findings from Southern Bell's internal audit reports.

Southern Bell has not met its burden with regard to those portions of the Staff audit reports which contain the Staff auditor's conclusions. Despite Southern Bell's general reliance on the exemption for internal audits found in Section 364.183(3)(b), this information is not an internal audit nor a quote or paraphrase of information derived from the Company's internal audits. Hence, the information is not exempt from public disclosure by that provision.

Finally, Southern Bell has sought confidential status for information found in Documents Nos. 2183-93 and 2184-93, information for which the Company did not seek confidential status in its motion for confidential classification regarding Document No. 1897-93. Likewise, Southern Bell has sought confidential status for information found in Document No. 1897-93, information for which the Company did not seek confidential status in its motion for confidential classification regarding Document Nos. 2183-93 and 2184-93. To the extent that Southern Bell has sought confidential classification for information that has public record status in another document on file with the Commission, we must deny Southern Bell's request.

Accordingly, we grant Southern Bell's motion for confidential classification for the following information found in the respective Staff audit reports, which discloses information derived from the Company's internal audit reports or associated audit workpapers:

<u>Document No.</u>	<u>Page</u>	<u>Line</u>	<u>Description</u>
1897-93 (Draft: Repair Report)	23	5-7	all highlighted information
	36	4, 5	section 5.1.1, 3rd paragraph, 2nd sentence
	53	16, 17	starting after the 13th word on line 16 to the end of line 17
	54	6	starting after the 3rd word and ending after the 7th word
	54	9	starting after the 3rd word and ending after the 12th word
	54	11, 12	all highlighted information
1897-93 (Draft: Non-Contact Sales Report)	37	13-19	all highlighted information
	38	7-8	starting after "activity" through end of sentence

<u>Document No.</u>	<u>Page</u>	<u>Line</u>	<u>Description</u>
1897-93 (Draft: Non-Contact Sales Report)	39	7-12	section 3.3, 3rd paragraph, 1st through 4th sentences
	40	2-6	section 3.3, 5th paragraph, 1st sentence
	67	9-10	starting after the 6th word on line 9 and ending after the first word on line 10
2183-93 (Repair Report)	27	13-15	all highlighted information
	37	26-30	all highlighted information
	49	26	beginning after the word "implement" to the end of the line
	49	27	all highlighted information
	50	5	beginning after the 2nd word and ending after the 12th word
	50	7, 8	2nd paragraph, section 6.2, finding 6, 3rd sentence
2184-93 (Non-Contact Sales Report)	30	14-21	all highlighted information
	30	22	1st six words
	30	26-27	all highlighted information
	30	28	1st 11 words
	31	14-19	all highlighted information
	31	20	1st 7 words
	31	24	1st 3 words and last 4 words

<u>Document No.</u>	<u>Page</u>	<u>Line</u>	<u>Description</u>
2184-93 (Non-Contact Sales Report)	31	25-27	all highlighted information
	31	28-34	all highlighted information
	55	30	1st word

We deny confidential classification for the following highlighted information found in the respective Staff audit reports, since the information is the Staff auditor's conclusions:

<u>Document No.</u>	<u>Page</u>	<u>Line</u>	<u>Description</u>
1897-93 (Draft: Repair Report)	23	1-4	all highlighted information
	53	16, 18	the first 12 words on line 16; all highlighted information on line 18
	54	6-7	starting after the 7th word on line 6 to the end of line 7
	54	8	all highlighted information
	54	9	the first 3 words; the last two words
	54	10	all highlighted information
1897-93 (Draft: Non-Contact Sales Report)	39	12-14	starting after the 12th word on line 12 to the end of line 14
	39	17-19	all highlighted information
	40	1	all highlighted information
	40	6-9	Section 3.3, 5th paragraph, 2nd and 3rd sentences

<u>Document No.</u>	<u>Page</u>	<u>Line</u>	<u>Description</u>
1897-93 (Draft: Non-Contact Sales Report)	67	11-13	starting after the 2nd word on line 11 to the end of line 13
2183-93 (Repair Report)	49	26	the first 12 words
	49	28-29	all highlighted information
	50	1-4	all highlighted information
	50	5	the first 2 words; the last 2 words
	50	6-7	all highlighted information on line 6 to the end of the sentence on line 7
2184-93 (Non-Contact Sales Report)	30	28-30	section 3.2.5, 4th paragraph, 2nd sentence
	31	20-21	starting after the 7th word on line 20 to the end of the sentence on line 21
	34	24	starting after the 3rd word and ending after the 8th word
	55	30-31	starting after the 1st word on line 30 and ending after the 2nd word on line 31

We deny confidential classification for the following highlighted information found in the following draft audit report, since the information is a public record in Document 2183-93:

<u>Document No.</u>	<u>Page</u>	<u>Line</u>	<u>Description</u>
1897-93 (Draft: Repair Report)	23	8, 9	all highlighted information
	36	1 - 3	all highlighted information
	36	4, 5	section 5.1.1, 3rd paragraph, 1st sentence
	36	8, 9	section 5.1.1, 3rd paragraph, 3rd sentence
	53	15	all highlighted information
	54	1 - 6	starting at the beginning of line 1 and ending after the 3rd word on line 6

We deny Southern Bell's request for confidential classification for the following information found in the following draft audit report, since the information is a public record in Document 2184-93:

<u>Document No.</u>	<u>Page</u>	<u>Line</u>	<u>Description</u>
1897-93 (Draft: Non-Contact Sales Report)	39	4 - 6	all highlighted information

We deny confidential classification for the following information found in the respective Staff audit reports, since the information is a public record in Document 1897-93:

<u>Document No.</u>	<u>Page</u>	<u>Line</u>	<u>Description</u>
2184-93 (Non-Contact Sales Report)	30	20-25	section 3.2.5, 3rd paragraph, 2nd and 3rd sentences
	30	26, 27	section 3.2.5, 4th paragraph, beginning with the 1st sentence and ending with "activity" in that sentence

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<u>Document No.</u>	<u>Page</u>	<u>Line</u>	<u>Description</u>
2184-93 (Non-Contact Sales Report)	31	22, 23	all highlighted information
	55	29	all highlighted information


Accordingly, it is, therefore

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that Southern Bell's Motion for Confidential Classification for Documents Nos. 1897-93, 2183-93 and 2184-93 is granted in part and denied in part as set forth in the body of this Order. It is further

ORDERED that pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, any confidentiality granted to the documents specified herein shall expire eighteen (18) months from the date of issuance of this Order in the absence of a renewed request for confidentiality pursuant to Section 364.183. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 10th day of February, 1994.



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.