

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Southern Bell	)	DOCKET NO. 890256-TL
Telephone and Telegraph Company's	)	ORDER NO. 22116
Capital Recovery Position	)	ISSUED: 10-31-89
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ORDER ON CONFIDENTIALITY

By Order No. 21930, issued September 21, 1989, the Prehearing Officer entered a Temporary Order on Confidentiality following his In Camera inspection of various documents filed with the Commission by Southern Bell Telephone and Telegraph Company (Bell), which are listed in Appendix A to this Order. The subject documents were submitted in connection with discovery requests of the Office of the Public Counsel (OPC) dated December 9, 1988, February 1, 1989, and May 31, 1989. Bell has requested that portions of the subject documents be classified as proprietary, confidential business information, rendering them exempt from the requirements of the Public Records Act, Chapter 119, Florida Statutes (the Act).

The temporary classification was made by the Prehearing Officer in aid of discovery for the purpose of maintaining the confidentiality of the subject documents until this final ruling can be entered pursuant to Rule 25-22.006, Florida Administrative Code (the Rule). In the absence of an order exempting these documents from the requirements of the Act, they would have been subject to disclosure when they entered the possession of OPC notwithstanding Bell's requests that they be classified confidential under the Rule. Pursuant to Order No. 21930, OPC obtained early possession of the subject documents in order to prepare for the hearing scheduled in this docket.

Exceptions to Order No. 21930 were filed by Bell and OPC, and a hearing was held by the Prehearing Officer on October 6, 1989, to consider these pleadings. After considering the arguments and reviewing the subject documents at an additional In Camera inspection, the Prehearing Officer affirms his initial finding in Order No. 21930 that the majority of the information contained within them appears not to merit this classification. However, Bell has made a sufficient showing to warrant specific findings that certain portions of the documents should be classified as proprietary, confidential information. Accordingly, it is the final ruling of the Prehearing Officer that only those portions of the subject documents identified in Appendix B to this Order (with

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exceptions as noted) are classified as proprietary, confidential information that is exempt from the requirements of the Act.

The Exceptions filed by Bell argue that Order No. 21930 is incorrect in finding that the subject documents are relevant to matters being considered in this proceeding. Therefore, Bell believes that the documents dealing with the operations of an affiliated corporation and with Bell's operations in other states have no bearing on this proceeding and thus should not be produced for inspection by OPC through discovery. After considering the company's argument, the Prehearing Officer affirms his initial finding that the subject documents are relevant and should be made available for inspection by the parties.

Now therefore it is

ORDERED by Commissioner John T. Herndon, as Prehearing Officer, that the Exceptions to Order No. 21930, issued September 21, 1989, filed by Southern Bell Telephone and Telegraph Company and by the Office of the Public Counsel are hereby granted to the extent identified in this Order and denied in all other respects. It is further

ORDERED that, following In Camera inspections of the subject documents identified in Appendix A to this Order, only those portions of the documents identified in Appendix B to this Order (with exceptions as noted) are classified as proprietary, confidential information pursuant to Rule 25-22.006, Florida Administrative Code, in response to Southern Bell Telephone and Telegraph Company's requests for confidentiality. It is further

ORDERED that the Office of the Public Counsel shall not disclose those portions of the subject documents identified in Appendix B to this Order (with exceptions as noted) and found by the terms of this Order to be classified as proprietary, confidential information and to be exempt from disclosure under Chapter 119, Florida Statutes. It is further

ORDERED that Order No. 21930, issued September 21, 1989, is hereby affirmed as modified in the body of this Order.

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By ORDER of Commissioner John T. Herndon, as Prehearing Officer, this 31st day of OCTOBER, 1989.

John T. Herndon  
JOHN T. HERNDON, Commissioner  
and Prehearing Officer

( S E A L )

DLC

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 sewer 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

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may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

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APPENDIX A

The following documents contain information which Southern Bell Telephone and Telegraph Company has requested be classified proprietary and confidential for the purpose of exempting it from public disclosure under the requirements of the Public Records Act, Chapter 119, Florida Statutes:

- I. In response to the OPC's December 9, 1988 discovery request:
  1. Network Investment Program dated September, 1988, and
  2. Network Capital Deployment Planning Assumptions dated August, 1988.
  
- II. In response to the OPC's February 1, 1989 discovery requests:
  1. Fiber 1989 Cost Analysis and Graph Data,
  2. Fiber 1988 update/validation study executive summary,
  3. ISDN development strategy, and
  4. Tabular data for accounts with unit cost and maintenance data.
  
- III. In response to the OPC's May 31, 1989 discovery request:
  1. Memo from R. M. Wolfe to J. C. McPherson, Jr., dated May 19, 1989,
  2. Market Driven Demand Forecast Table dated April 3, 1989,
  3. Response to Interrogatory No. 6,
  4. Memo from J. R. Green to N. C. Baker dated July 18, 1988 through and including the attached paper entitled Catalyst for BISDN,
  5. Memo from John Ebbert to Joe Green dated September 22, 1988,
  6. CATV Business Plan dated April, 1988,
  7. Memo from E. Wrigley to R. Hudson,
  8. Memo from K. W. Kaplan to J. M. Gilman & R. D. Moran, dated January 12, 1989, and
  9. Memo and accompanying Analog ESS Economic Study Guidelines dated December 21, 1988.

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APPENDIX B

When used below, the word "Material" shall mean that portion of a document identified by Southern Bell Telephone and Telegraph Company by yellow highlighting as being information which the company believes to be proprietary and confidential. When used below, the word "Data" shall refer exclusively to figures that appear in charts or listings contained within a document identified by the company by yellow highlighting as being information which the company believes to be proprietary and confidential, and unless otherwise indicated, this term shall not include the column headings, line explanations or other narrative labels included in such charts or listings. The following portions of the subject documents are classified proprietary and confidential under the terms of this Order (with any portions that are not classified proprietary and confidential being noted as exceptions):

: NETWORK INVESTMENT PROGRAM DATED SEPTEMBER, 1988:

<u>Plan</u>	<u>Page</u>	<u>Confidential Material or Data</u>
<u>Identified:</u>		
ISDN1	1	Material on last line of 2nd para.
	2	Material on 1st line of 2nd para.; and in 3rd para.: Material on line 1, 3rd - 5th words on line 2 and Material on lines 4 and 5.
	3	Material in 2nd & 3rd paras. under heading "ECONOMICS".
	4	1st & 2nd words on lines 3 & 5 of 1st para. and Data in listing.
	5	Data in listing and 7th word on 5th line under heading "RISK ANALYSIS".
ISDN2	1	Material in 1st point under listing of Program Description - alternative architectures (except title).
	2	Material in 1st, 2nd & 3rd paras. under listing of Program Description - alternative architectures (except title).

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<u>Plan</u>	<u>Page</u>	<u>Confidential Material or Data</u>
	3	In 1st para. under listing of Targeting Guidelines - market segments: Material starting with last 3 words on line 5 and running through end of sentence on line 6, and Material on line 8.
	4	Material in last sentence of 1st para.; Material in 2nd para.; and Material in line 1 of 3rd para. (except title).
	5	5th - 7th words in line 2 of 1st para.; and 3rd - 6th and 10th words in line 5; and 1st - 4th words of line 6.
	6	Data in columns regarding capital costs.
	7	Last word in line 2 of 2nd para.; and Material in last 2 lines of last para.
ISDN3	2	3rd & 5th words on line 2 of 1st para.
ISDN4	1	In 2nd para.: 7th-9th words on line 2 and 8th & 9th words on line 3; and Material in last para.
	2	Data in listing under heading "TARGETING GUIDELINES".
	3	Material in line 4 of 1st para.; and Data in charts.
	4	6th & 7th words in line 5 and 1st & 2nd words in line 6 of 2nd para.; and Material in last para.
	5	Material in line 2 and 1st word in line 3 of 1st para.; and 5th word in line 2 and last word in line 4 of 3rd para.
ISDN4	2	Data in charts.
	4	Data in charts; and 7th word in 1st line explanation of 1st chart.
	5	Data in charts.
	6	Data in chart.
	7	Data in all listings.
	8	All Material and Data.
ISDN5	2	Material in 2nd para.; and 9th word in line 3 of last para.
	3	In 1st para.: 5th & 6th words of line 8, and Material in lines 10 & 11; Material in last 2 lines of 2nd para; and Material in last para.
	4	Material in 1st para.

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<u>Plan</u>	<u>Page</u>	<u>Confidential Material or Data</u>
ISDN6	2	Material in last sentence of 1st para.; and Material in listings of 4 key reasons at the bottom of the page.
	3	4th word in line 8 of 1st para. and last word in line 7 of last para.
		In pages 4 - 7, all Data.
	9	Dollar figures at end of both sentences in No. 2 Para.; and 7th word in second sentence.
	10	Material in No. 4 Para.; all percentages in last para. under heading "ECONOMICS"; and Data in listing at the bottom of the page.
	11	In 2nd para.: last 3 words on line 3, all of line 4 and 4th word in line 6.
ISDN7	1	All Material.
	2	Material in 1st 2 sentences under Program Description (cont'd.).
	3	If AccuPulse Service has been deployed in locations listed under heading "SBT", then these locations are not proprietary and confidential, but otherwise, they are.
ISDN8	1	Last sentence of 2nd para.; and Material in last para.
	2	All Material (except line explanations in the listing of Target Market Characteristics and Material in 1st para. under heading "CRITICAL MILESTONES").
	3	4th word in line 4 of 1st para.; Data in chart; and Material in line 7 of last para.
ISDN9	3	Material in 1st para. and Data in chart.
ISDN10	3	Material and Data in chart.
ISDN11	3	Material and Data in chart.
ISDN12	2	Data in chart.
	3	4th word in 1st line of 1st para.; and 2nd - 6th words in 1st line of 2nd para. under Economics (cont'd.).

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<u>Plan</u>	<u>Page</u>	<u>Confidential Material or Data</u>
ISDN13	2	Material in last line of last para.
	3	Material in 3rd sentence in 1st para., and Material in 2nd and 3rd paras. under Targeting Guidelines.
	4	Data in chart.
	5	Data in both charts.
	6	Data in chart.
	7	In the Southern Bell section of the Deployment Schedule, dates but not locations.
	IN1	1
3		Data in chart.
IN2	2	Material in 1st sentence under heading "ECONOMICS"; and Data in chart.
IN3	1	All Material (except Material under heading "STRATEGIC LINKAGES").
	2	Material in Nos. 4 & 5 Paras. under heading "TARGETING GUIDELINES".
	3	Data in chart.
IN4	2	Data in chart.
	3	Data in chart.
POS1	1	Material in 2nd para. under heading "STRATEGIC LINKAGES".
	2	Data in chart.
	3	Data in chart.
	4	Material under headings "IMPLEMENTATION" and "PROJECT FUNDING CRITERIA".
	5	Data in both charts (except Total figure under column "SCB/SBT Modular Service Node").
POS2	2	6th & 7th words in line 1.
	3	Data in chart.
	4	Last 3 words in last sentence under heading "RISK ANALYSIS".
POS3	2	Data in chart; and Material under heading "IMPLEMENTATION".

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<u>Plan</u>	<u>Page</u>	<u>Confidential Material or Data</u>
POS4	2	Data in chart.
	3	6th word in 1st line under heading "RISK ANALYSIS"; and Material under heading "IMPLEMENTATION".
POS5	1	All Material.
	2	Material in 2nd para.; and 11th word in line 4 under heading "CRITICAL MILESTONES".
	3	Data in chart.
	4	Material in 1st para. under heading "IMPLEMENTATION."
POS6	2	Data in chart.
POS7	3	Data in chart.
	4	Material in 2nd para. under heading "RISK ANALYSIS".
POS8	1	Material in last para. under heading "CRITICAL MILESTONES."
	2	Data in chart.
	3	Material in 2nd para. under heading "RISK ANALYSIS".
POS9	3	Material and Data in listing of 4 items under heading "ECONOMICS".
	4	All Material and Data.
	5	Under heading "PROJECT FUNDING CRITERIA": 3rd-6th words in line 4; and titles of Nos. 1 & 2 Paras.
	6	Under heading "PROJECT FUNDING CRITERIA": 2nd & 3rd words in line 1 of the 1st para.; 2nd word of the 2nd para.; and in 3rd para.: 10th-12th words in line 1 and 1st-5th words in line 2.
	7	Data in chart.
POS10	2	Material in last para. under heading "CRITICAL MILESTONES."
	3	All Material and Data.
	4	Data in chart.
	5	All Material (except Material under heading "RISK ANALYSIS").
	6	All Material.

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<u>Plan</u>	<u>Page</u>	<u>Confidential Material or Data</u>
POS11	2	Data in chart; and 4th & 5th words in last line of page.
	3	2nd & 3rd words in line 1 of 1st para.
CR1	2	Material in line 2 of 2nd para. (except last word) under heading "ECONOMICS".
	3	Data in both charts.
CR2	2	Data in chart.
CR3	2	Data in chart.
CR4	2	Data in chart.
CR5	1	Material under heading "PROGRAM DESCRIPTION".
	2	Data in chart.
OS1	3	Data in chart.
	5	Material under heading "PROJECT FUNDING CRITERIA"; and under heading "BUDGETING GUIDELINES": starting with the 4th word in line 2 and running through the end of the sentence on line 4.
OS2	1	All Material (except Material under heading "STRATEGIC LINKAGES").
	2	2nd - 5th items under heading "ECONOMICS" in listing of key assumptions.
	3	Data in chart.
OS3	1	Material under heading "CRITICAL MILESTONES".
	2	1st, 3rd and 5th items under heading "ECONOMICS" in listing of key assumptions.
	3	All Material and Data.
	4	Material under heading "IMPLEMENTATION".
OS4	2	Material in 1st para. under heading "ECONOMICS"; and Data in chart.
OS5	2	All Material and Data.
	3	All Material (except Material under heading "RISK ANALYSIS").

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<u>Plan</u>	<u>Page</u>	<u>Confidential Material or Data</u>
OS6	3	Data in listing and chart.
OS7	2	Material under heading "ECONOMICS".
OS8	1	All Material (except Material under heading "STRATEGIC LINKAGES").
	2	Material in lines 3-6 of the 1st para. under heading "TARGETING GUIDELINES;" and Material in the last line of the 2nd para under heading "CRITICAL MILESTONES."
	3	All Material and Data (except line explanations in chart).
	4	Data in chart.
	5	Material in lines 4-6 of 1st para. under heading "ECONOMICS" and in lines 1-4 of 3rd para. under heading "RISK ANALYSIS."
OS9	2	Material under heading "TARKETING GUIDELINE".
	3	Material in line 4 of 1st para.; Data in chart; and Data under column heading "Region Costs" in listing.
	4	Data under column heading "Region Costs" in all 3 listings.
	6	Last word in line 9 and Material in line 10 of 1st para. under heading "EXPENDITURE CLASSIFICATION."
OS10	2	Material in 2nd para. and Data in chart.
	3	Data in chart.
OS11	2	Data in chart; and 5th - 7th words of the Note.
OS12	3	Data in chart.
OP1	3	Data in chart.
OP2	3	Data in chart.
OP3	4	All Material.
	5	All Material and Data.
	6	Data in chart.

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<u>Plan</u>	<u>Page</u>	<u>Confidential Material or Data</u>
OP4	1	Material in 1st para. under heading "PROGRAM DESCRIPTION."
	2	Material in last para. under heading "CRITICAL MILESTONES."
	3	Material in 2nd para. under heading "ECONOMICS".
OP5	2	Material in lines 2 and 3 under heading "ECONOMICS".
	4	Material in lines 1 and 2 under heading "BUDGETING GUIDELINES".

Unidentified:

ISDN1	2	Material under heading "ECONOMICS".
ISDN2	4	Data in listing.
ISDN3	2	Material in items listed as requirements under heading "STRATEGIC LINKAGES".
	3	Material under heading "CRITICAL MILESTONES".
	4	Paras. Nos. 1 and 3 under heading "IMPLEMENTATION".
ISDN4	4	Material in lines 1-3 of the 1st para.; and Material in the 2nd para. under heading "ECONOMICS."
POS3	1	Material in 3rd sentence under heading "ECONOMICS".
POS9	2	Material in line 1.
	3	Data in chart.
CR2	1	Material under heading "CRITICAL MILESTONES".
OP2	1	Material under heading "PROGRAM DESCRIPTION".

Appendix:

Pages 1-12 All Data in Charts.

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NETWORK CAPITAL DEPLOYMENT PLANNING ASSUMPTIONS  
DATED AUGUST, 1988:

A. Technical Assumptions Section: All Material and Data on pages T9 through T84.

B. Cost Assumptions Section:

<u>Page</u>	<u>Confidential Material or Data</u>
	In pages C11 & C12, all Material and Data.
	In pages C13, C14, C16, C18, C20, C22-C24, C27-C29, C33-C37, and C41 all Data.
C42	Last three sentences in last para. In pages C43-C48 and C50: all Data.
C53	All Data; and Material under the heading "COMMENTS". In pages C54, C57 & C58, C60 & C61, C65 & C66, all Data.
C67	Data under heading "ASSUMPTIONS".
C71	Data in chart under heading "Current Installed First Cost" and Material under heading "COMMENT". In pages C72 & C73, all Data.
C74	Data in chart under heading "Current Installed First Cost".
C77	1st - 3rd words in 2nd line of the 4th item listed under the heading "COMMENT" In pages C78 & C79, all Data.

C. Operations Assumptions Section:

<u>Page</u>	<u>Confidential Material or Data</u>
OP8	Final word in line 2 and remainder of sentence in last line under heading "ASSUMPTIONS"; and Material under heading "COMMENTS".

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D. Standards Assumptions Section:

<u>Page</u>	<u>Confidential Material or Data</u>
ST5	Material in 2nd item under heading "ASSUMPTIONS" and in 2nd and 3rd items under heading "COMMENTS".
ST7	Last word in line 2 of 2nd item listed under heading "ASSUMPTIONS"; and Material in 2nd and 3rd items listed under heading "COMMENTS".
ST9	All Material.
ST10	Material under heading "ASSUMPTIONS"

FIBER 1989 COST ANALYSIS AND GRAPH DATE:

This document consists of 48 pages of data regarding seven subdivisions, and all Data are proprietary and confidential.

FIBER 1988 UPDATE/VALIDATION STUDY EXECUTIVE SUMMARY:

<u>Page</u>	<u>Confidential Material or Data</u>
4	All Material.
11	All Data.
13	Material under heading "Crossover Years."
	Pages 14-19 and 22-29 are graphs on which all Material (except the inflation data at the bottom of each graph) is proprietary and confidential.
30	All Material.
	Pages 31-46 and 48 & 49 are graphs on which all Material (except the inflation data at the bottom of each graph) is proprietary and confidential.

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ISDN DEPLOYMENT STRATEGY:

<u>Page</u>	<u>Confidential Material or Data</u>
	In pages IV3 through IV9: all Material and Data.
IV10	All Material.
IV11	All Material and Data.
	In pages IV14 & IV15: all Data.

TABULAR DATA FOR ACCOUNTS WITH UNIT COST AND  
 MAINTENANCE DATA, BEGINNING WITH THE POLE LINE ITEM:

This document consists of 154 pages of information presented in a tabular format.

<u>Page</u>	<u>Confidential Material or Data</u>
	In pages 11, 131 and 132: all Data.

MEMO FROM R. M. WOLFE TO J. C. MCPHERSON, JR.,  
 DATED MAY 19, 1989:

<u>Page</u>	<u>Confidential Material or Data</u>
1	In the 2nd para., beginning with 7th word on line 7 and running through the end of that sentence on line 9; and the last three words on the page.
2	The 2nd sentence in the 2nd para.; and the 1st three words of line 5 of the 3rd para.
3	Material in the 2nd item listed under the heading "RECOMMENDATIONS".
4	Material in the 2nd para.; and Material in the 4th item listed under the heading "Strategic Factors".

MARKET DRIVEN DEMAND FORECAST TABLE DATED APRIL 3, 1989:

This document consists of 16 pages of charts containing forecasted data. The first 9 pages are dated April 3, 1989, the next 4 pages are dated April 5, 1989, the next page is dated "Late '88 - Early '89", and the last 2 pages are undated Wire Center Reports regarding the Jacksonville LATA. All Data in these charts are proprietary and confidential.

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RESPONSE TO INTERROGATORY NO. 6:

None of the Material or Data contained in this document is proprietary information that should be classified as confidential.

MEMO FROM J. R. GREEN TO N. C. BAKER DATED JULY 18, 1988  
THROUGH AND INCLUDING THE ATTACHED PAPER  
ENTITLED CATALYST FOR BISDN:

Material in lines 7 and 8 of the 2nd para. of page 2 is proprietary and confidential.

MEMO FROM JOHN EBBERT TO JOE GREEN  
DATED SEPTEMBER 22, 1988:

All Material is proprietary and confidential.

CATV BUSINESS PLAN DATED APRIL, 1988:

<u>Page</u>	<u>Confidential Material or Data</u>
2	3rd and 4th lines under the heading "RECOMMENDATIONS".
9	Material in 4th item listed under heading "Transport Market Size and Willingness to Pay".
12	Material in chart under heading " <u>BellSouth Future (BISDN)</u> ".
17	All Material
20	2nd and 3rd sentences under heading " <u>Synergies</u> ".
21	Material beginning with 1st word and running through the end of the sentence on line 2.
22	Material in the lines 7 through 16.
23	Material in the lines 12 through 16.

Material in charts on pages 26-28 under heading "BELLSOUTH DECISION COMPONENTS" and the Assessment Section at the bottom of the charts.

Material in charts on pages 29 and 30 under heading "NEW ENTRANTS" and the Assessment Section at the bottom of the charts.

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<u>Page</u>	<u>Confidential Material or Data</u>
31	All Material and Data.
32	All Material and Data.
33	Material in the 3rd para.
35	3rd sentence in the last para.

MEMO FROM E. WRIGLEY TO R. HUDSON DATED APRIL 18, 1988:

<u>Page</u>	<u>Confidential Material or Data</u>
7	Material in the 2nd full para.
10	Material in final para.

MEMO FROM K. W. KAPLAN TO J. M. GILMAN & R. D. MORAN  
 DATED JANUARY 12, 1989:

<u>Page</u>	<u>Confidential Material or Data</u>
10	All Material.

MEMO AND ACCOMPANYING ANALOG ESS ECONOMIC STUDY GUIDELINES  
 DATED DECEMBER 21, 1988:

<u>Tab</u>	<u>Page</u>	<u>Confidential Material or Data</u>
4	2	All Material.
6	1	Dollar figures on lines 5 and 6 of 3rd para.
11	3	All Material.

In Appendix A, all Data in the charts on pages 1-4 under the heading "Dec 87 ESSX Lines" are proprietary and confidential.

In Appendix C, all Data in the charts on pages 2-21 are proprietary and confidential.

In Appendix H, all Data in the tables on pages 2-6 are proprietary and confidential.