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November 23, 1992

Mr. Steve C. Tribble
Director, Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32301

RE: Docket No. 910163-TL

Dear Mr. Tribble:

Enclosed are an original and fifteen copies of Southern Bell Telephone and Telegraph Company's Response and Objections to Public Counsel's Thirty-First Request for Production of Documents and Motion for Temporary Protective Order. Please file these documents 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 on the parties shown on the attached Certificate of Service.

Sincerely,

Sidney J. White, Jr.
Sidney J. White, Jr.

ACK

AFA

APP

CAF

 Enclosures

OTY cc: All Parties of Record

EAG A. M. Lombardo

LEG *1 w/m* H. R. Anthony

LIN *6* R. D. Lackey

OPD

PRD

SPD *1*

VLD

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DOCUMENTS DEPARTMENT
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition on Behalf of)
Citizens of the State of Florida) Docket No. 910163-TL
to Initiate Investigation into)
Integrity of Southern Bell) Filed: November 23, 1992
Telephone and Telegraph Company's)
Repair Service Activities and)
Reports.)
_____)

SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S
RESPONSE AND OBJECTIONS TO PUBLIC COUNSEL'S
THIRTY-FIRST REQUEST FOR PRODUCTION OF DOCUMENTS
AND MOTION FOR TEMPORARY PROTECTIVE ORDER

COMES NOW BellSouth Telecommunications, Inc., d/b/a Southern Bell Telephone and Telegraph Company ("Southern Bell" or "Company"), and files (1) pursuant to Rule 25-22.034, Florida Administrative Code, and Rule 1.350, Florida Rules of Civil Procedure, its Response and Objections to the Office of Public Counsel's ("Public Counsel") Thirty-First Request for Production of Documents dated October 22, 1992 and (2) pursuant to Rule 25-22.034, Florida Administrative Code, and Rule 1.280(c), Florida Rules of Civil Procedure, its Motion for Temporary Protective Order.

MOTION FOR TEMPORARY PROTECTIVE ORDER

Some of the documents that will be delivered to or made available for review by Public Counsel contain proprietary, confidential business information that should not be publicly disclosed. Thus, pursuant to Rule 25-22.006(5)(c), Florida Administrative Code, Southern Bell moves the Prehearing Officer to issue a Temporary Protective Order exempting these documents from § 119.07(1), Florida Statutes. These documents contain, among other things, customer-specific information, employee-specific information unrelated to compensation, duties,

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qualifications or responsibilities, and other proprietary confidential business information. Such information is specifically included as proprietary confidential business information pursuant to § 364.183, Florida Statutes. If Public Counsel subsequently notifies Southern Bell that any of the proprietary documents are to be used in a proceeding before the Commission, Southern Bell will, in accordance with Rule 25-22.006, Florida Administrative Code, file a detailed motion for protective order specifically addressing each of the documents identified.

GENERAL RESPONSE AND OBJECTIONS

1. Southern Bell is responding to these document requests in this docket alone, notwithstanding Public Counsel's labeling of the requests to apply to two additional dockets. Southern Bell has this same day filed companion pleadings objecting to the requests in those other dockets and incorporates those arguments herein by reference.

2. Southern Bell objects to Public Counsel's "Instructions" relating to the inclusion of descriptions of the "sequence or order" of the documents to be produced. Such information is neither required when documents are produced, nor is it necessary. The "sequence or order" of the documents should be self-evident from a review of such documents.

3. Southern Bell objects to the "Instructions" relating to "SORTING and ORDERING INFORMATION." Southern Bell is under a duty to produce relevant documents responsive to Public Counsel's requests. However, Southern Bell is aware of no duty that exists

to organize, sort, or otherwise place documents in the order desired by a party requesting the documents. Consequently, this instruction is improper and therefore objectionable. To the extent possible, Southern Bell will produce the documents in an orderly fashion and in a manner that will not impede Public Counsel's review of such documents.

4. Southern Bell objects to the "Instructions" relating to Public Counsel's request that the Company list "the title, date, and general description of any responsive document not being produced." In addition to being unduly burdensome and oppressive, such a request is objectionable in that it would literally require Southern Bell to provide Public Counsel with individual indices of all previously produced documents corresponding to the document requests at issue herein. Southern Bell does refer Public Counsel to previous productions of documents where appropriate in order to make proper reference to documents previously produced. No further duty exists, nor is it appropriate to request further indexing or referencing as suggested by Public Counsel.

5. Southern Bell objects to Public Counsel's definition of "document" or "documents". Public Counsel's definition of these terms is overly broad and is objectionable pursuant to standards adopted in Caribbean Security Systems v. Security Control Systems, Inc., 486 So. 2d 654 (Fla. App. 3rd District 1986).

6. Southern Bell objects to Public Counsel's definition of "you" and "your" as well as the definition of "BellSouth". It appears that Public Counsel, through its definition of these

words, is attempting to obtain discovery of information in the possession, custody, or control of entities that are not parties to this docket. Requests for Production may only be directed to parties, and any attempt by Public Counsel to obtain discovery from non-parties should be prohibited. See Rule 1.340, Florida Rules of Civil Procedure; Broward v. Kerr, 454 So. 2d 1068 (4th D.C.A. 1984).

7. Southern Bell does not believe it was Public Counsel's intent to require Southern Bell to produce again the same documents previously produced in other dockets, but to the extent it does, Southern Bell objects on the basis that such a request would be unduly burdensome, oppressive, and unnecessary, and for these reasons, is prohibited.

8. Southern Bell objects to the specific time and place designated by Public Counsel for the production of documents for the reasons that the designation is not reasonable, but has no objection to producing the documents that are responsive and to which no other objection is made, at a mutually agreed upon time and place.

9. Southern Bell objects to Public Counsel's requests on the basis that certain classes of documents requested are not relevant to the subject matter of this proceeding. Rule 1.280, Florida Rules of Civil Procedure, state that "parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter of the pending action." This proceeding concerns Southern Bell's regulated repair service operations in the State of Florida. Therefore, any and all data regarding

Southern Bell's operations in other states, some information concerning other affiliated companies (which, in addition to being irrelevant may also be proprietary) and some information concerning Southern Bell's unregulated services are not relevant to this proceeding and therefore are not the proper subject of discovery.

10. The following Specific Responses are given subject to the above-stated General Responses and Objections.

SPECIFIC RESPONSES

11. In response to Request No. 1, Southern Bell will produce the staff network operational reviews that are in its possession, custody, or control at a mutually convenient time and place.

12. In response to Request No. 2, Southern Bell objects to this request on the basis that it is unduly burdensome, oppressive, and would cause unreasonable interference with the Company's business operations to respond to as framed. A special manual exercise would have to be performed to extract the telephone numbers from all of the reports requested. In addition, the telephone numbers would then have to be manually entered into LMOS to extract the information requested in this document request. This effort would be extremely labor intensive considering the amount of telephone numbers included in the operational review information being produced in response to Request No. 1. Also, these documents, if collected, would contain proprietary customer-specific information which would only be provided subject to the Motion for Temporary Protective

Order. Notwithstanding these objections, if after initial review of the documents to be produced in response to Request No. 1, Public Counsel could provide Southern Bell with a reasonable sample of numbers for which the requested documentation was sought, then Southern Bell would be willing to provide such reasonable documentation.

13. In response to Request No. 3, Southern Bell objects to this request on the basis that it is unduly burdensome, oppressive, and would cause unreasonable interference with the Company's business operations to respond to as framed. A special manual exercise would have to be performed to extract all the telephone numbers from all of the staff network operational reviews sought by Public Counsel in Request No. 1. In addition, an extensive search of customer billing records would then be required to produce the information requested in this document request. Also, these documents, if collected, would contain proprietary customer-specific information which would only be provided subject to the Motion for Temporary Protective Order. Notwithstanding these objections, if after initial review of the documents to be produced in response to Request No. 1, Public Counsel could provide Southern Bell with a reasonable sample of numbers for which the requested documentation was sought, then Southern Bell would be willing to provide such reasonable documentation.

14. In response to Request No. 4, Southern Bell will produce a document providing a previously generated count of the number of possible computer records that could meet the criteria

set forth in this request. Although this data resides in Company databases, Southern Bell does not have the requested analyses for all time periods dating back to 1985. If Public Counsel would request a representative time period or desired sample, Southern Bell could respond accordingly.

15. In response to Request No. 5, Southern Bell objects to this request on the basis that it is unduly burdensome and oppressive, and the production of all documents responsive to the request would unnecessarily disrupt the Company's normal business operations. Public Counsel's request would call for the extraction of no less than 695,000 records from Company databases. Thereafter, additional manual exercises would be required to extract additional documents from its databases and evaluate these documents for responsiveness. Such a monumental and labor intensive exercise is unwarranted, oppressive, and objectionable. Also, See: Southern Bell's Response to Public Counsel's Thirty-First Set of Interrogatories, Item No. 2. Although this data resides in Company databases, Southern Bell does not have the requested analyses for all time periods dating back to 1985. If Public Counsel would request a representative time period or desired sample, Southern Bell could respond accordingly.

16. In response to Request No. 6, see Southern Bell's response to Request No. 5.

17. In response to Request No. 7, see Southern Bell's response to Request No. 4.

18. In response to Request No. 8, Southern Bell objects to this request on the basis that it is unduly burdensome and oppressive, and the production of all documents responsive to the request would unnecessarily disrupt the Company's normal business operations. Public Counsel's request would call for the extraction of no less than 40,000 records from Company databases. Thereafter, additional manual exercises would be required to extract additional documents from other databases and evaluate these documents for responsiveness. Such a monumental and labor intensive exercise is unwarranted, oppressive, and objectionable. Also, See: Southern Bell's Response to Public Counsel's Thirty-First Set of Interrogatories, Item No. 3. Although this data resides in Company databases, Southern Bell does not have the requested analyses for all time periods dating back to 1985. If Public Counsel would request a representative time period or desired sample, Southern Bell could respond accordingly.

19. In response to Request No. 9, see Southern Bell's response to Request No. 8.

20. In response to Request No. 10, Southern Bell objects to this request on the basis that it is overly broad, ambiguous, and as framed would conceivably call for the production of documents Southern Bell may not be legally permitted to disclose. Read literally, this request seeks to have Southern Bell produce each and every document containing any analysis or statistics, without limitation, which documents were also prepared and produced for the Attorney General or the Statewide Prosecutor. Southern Bell cannot determine with any reasonable certainty which documents

might be responsive to this overly broad and ambiguous request. In addition, Southern Bell objects to this request on the basis that Public Counsel's overly broad request is seeking to discover documents that, pursuant to Section 905.27(1), Florida Statutes, Southern Bell may not be at liberty to disclose. Section 905.27, Florida Statutes, in pertinent part, states that any:

"... person appearing before the grand jury shall not disclose the testimony of a witness examined before the grand jury or other evidence received by it except when required by a court ..."

Evidence in the form of documents was received by the statewide grand jury in conjunction with its investigation of Southern Bell. Unless Public Counsel is more specific and limits its request to specific documents relevant to this particular proceeding, Southern Bell cannot respond to the request as framed because in doing so, the Company could violate the above-stated statutory non-disclosure requirement. Notwithstanding these objections, Southern Bell will produce statistical and analytical documents not otherwise covered by these non-disclosure prohibitions or other legal restrictions on disclosure, to the extent that these documents were specifically prepared and produced for the Attorney General or Statewide Prosecutor and are related to Southern Bell's repair service operations in the State of Florida.

21. In response to Request No. 11, see Southern Bell's response to Request No. 10.

22. In response to Request No. 12, see Southern Bell's response to Request No. 10.

23. In response to Request No. 13, Southern Bell objects to this request on the basis that it is unduly burdensome and oppressive, and the production of all documents responsive to the request would unnecessarily disrupt the Company's normal business operations. Public Counsel's request would call for the extraction of no less than 50,000 records from Company databases. Thereafter, additional manual exercises would then be required to extract additional documents from other databases and evaluate these documents for responsiveness. Such a monumental and labor intensive exercise is unwarranted, oppressive, and objectionable. Also, See: Southern Bell's Response to Public Counsel's Thirty-First Set of Interrogatories, Item No. 4. Although this data resides in Company databases, Southern Bell does not have the requested analyses for all time periods dating back to 1985. If Public Counsel would request a representative time period or desired sample, Southern Bell could respond accordingly.

24. In response to Request No. 14, see Southern Bell's response to Request No. 13.

25. In response to Request No. 15, Southern Bell objects to this request on the basis that the "OOS 24-hours Excluded Report" referenced in this Request was not provided by the Company in response to Public Counsel's Thirty-First Set of Interrogatories, Item No. 5. Consequently, Southern Bell objects to producing any DLETHs which might have related to the "report" which was objected to initially in response to Interrogatory Item No. 5.

26. In response to Request No. 16, Southern Bell objects to this request for the same reasons contained in the Company's response to Public Counsel's Thirty-First Set of Interrogatories, Item No. 5. Therefore, no such "separate listing" or "OC&C statement" can reasonably be produced at this time. See: Southern Bell's response to Public Counsel's Thirty-First Set of Interrogatories, Item No. 5.

27. In response to Request No. 17, see Southern Bell's response to Request No. 5.

28. In response to Request No. 18, see Southern Bell's response to Request No. 5.

29. In response to Request No. 19, see Southern Bell's response to Request No. 8.

30. In response to Request No. 20, see Southern Bell's response to Request No. 8.

Respectfully submitted this 23rd day of November 1992.

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