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December 4, 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 Staff's Twenty-Third Request for Production of Documents and Motion for Protective Order which we ask that you file in the above-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.

Enclosures

cc: All Parties of Record
A. M. Lombardo
H. R. Anthony
R. D. Lackey

Handwritten initials

Handwritten notes and stamps:
12/11/92
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14178
Old Key

DOCUMENT NUMBER-DATE
14178 DEC-4 1992
FPSC-RECORDS/REPORTING

CERTIFICATE OF SERVICE
Docket No. 910163-TL

I HEREBY CERTIFY that a copy of the foregoing has been furnished by United States Mail this 4th day of December, 1992 to:

Charles J. Beck
Assistant Public Counsel
Office of the Public Counsel
812 - 111 W. Madison Street
Tallahassee, FL 32399-1400

Tracy Hatch
Division of Legal Services
Florida Public Svc. Commission
101 East Gaines Street
Tallahassee, FL 32399-0863

: A handwritten signature in cursive script, appearing to read "Sig White", written over a horizontal line. The signature is followed by a colon.

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: December 4, 1992
Telephone and Telegraph Company's)
Repair Service Activities and)
Reports.)
_____)

SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S RESPONSE AND
OBJECTIONS TO STAFF'S TWENTY-THIRD REQUEST FOR PRODUCTION OF
DOCUMENTS AND MOTION FOR 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 Staff's Twenty-Third Request for Production of Documents dated October 30, 1992, and (2) pursuant to Rule 1.280(c), Florida Rules of Civil Procedure, its Motion for Protective Order.

MOTION FOR PROTECTIVE ORDER

Some of the documents requested by Staff are privileged documents. Thus, pursuant to Rule 25-22.034, Florida Administrative Code, and Rule 1.280(c), Florida Rules of Civil Procedure, Southern Bell moves the Prehearing Officer to issue a Protective Order directing that discovery not be had with respect to these privileged documents. Southern Bell's specific responses to Request Nos. 2, 4, and 5 set forth herein further specify the basis on which these documents are deemed to be privileged. Moreover, Public Counsel has previously requested the identical information, and Southern Bell has consistently

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asserted that these documents are privileged. (See Southern Bell's Response and Objections to Public Counsel's Thirtieth Request for Production of Documents and Motion for Protective Order filed November 25, 1992.)

GENERAL RESPONSE AND OBJECTIONS

1. Southern Bell objects to Staff's definition to "you" and "your" as well as the definition of "BellSouth Telecommunications, Inc." It appears that Staff, 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. Interrogatories may only be directed to parties, and any attempt by Staff 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).

2. Southern Bell objects to Staff's definition of "document" or "documents." Staff's definition of these terms is overly broad and is objectionable pursuant to standards adopted in Caribbean Security Systems v. Security Control Systems, Inc., 46 So. 2d 654 (Fla. App. 3rd Dist. 1986).

3. Southern Bell objects to Staff's definition of "relating to." Staff's definition of this term is overly broad and objectionable in that under Staff's definition a document "relating to" a given subject could mean literally any document mentioning the subject in any way, shape, or form. Clearly, such

an overly broad and unduly burdensome qualification for testing the responsiveness of documents in the context of discovery is improper and would cause the production of unnecessary, unrelated and irrelevant documents.

4. Southern Bell objects to Staff's suggestion that this request for production of documents is continuing in nature. A party who responds to a request for discovery with a response that is complete when made is under no duty to supplement such response thereafter to include information later acquired. Rule 1.280(e), Florida Rules of Civil Procedure. Consequently, Staff's request that this discovery be continuing in nature is improper and therefore objectionable.

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

SPECIFIC RESPONSES

6. In response to Request No. 1, Southern Bell previously produced this document in response to Staff's Third Request for Production of Documents, Item No. 2.

7. In response to Request No. 2, Southern Bell objects to this request on the basis that it calls for the production of a privileged document. The "1991 Operational Review Audit" performed by Company internal auditors was performed at the specific request of the Legal Department as a part of the repair service operations investigation conducted by and on behalf of attorneys for Southern Bell. The audit consists of interviews,

analyses, and other documents comprising the fruits of this investigation. This audit was performed in order to assist Company attorneys in gathering information which was then used to render legal advice and counsel and formed the basis on which legal opinions were so rendered. Consequently, this document is not subject to discovery under the Work-Product Doctrine and Attorney-Client privilege, or both.


8. In response to Request No. 3, Southern Bell is producing documents responsive to this request in response to Staff's Twenty-Fourth Request for Production of Documents, Request No. 1. The quarterly reviews already produced were the only such reviews performed, and there were no other reviews done specifically addressing the issues of "backing up of clearing and closing times on customer trouble reports."


9. In response to Request No. 4, Southern Bell objects to this request on the basis that it calls for the production of privileged documents. This request seeks notes compiled by the Personnel Department and derived from the privileged internal investigation in order to determine whether any individual should be disciplined and to what extent. Southern Bell has consistently maintained that these documents constitute privileged investigatory materials. See also: Southern Bell's response to Request No. 1 of Staff's Sixteenth Request for Production of Documents, filed June 5, 1992.

10. In response to Request No. 5, see Southern Bell's response to Request No. 4.

Respectfully submitted this 4th day of December, 1992.

SOUTHERN BELL TELEPHONE
AND TELEGRAPH COMPANY


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