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December 14, 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. 920260-TL - Rate Stabilization

Dear Mr. Tribble:

Enclosed please find an original and fifteen copies of Southern Bell Telephone and Telegraph Company's Motion to Quash Subpoenas, or in the Alternative, for a Protective Order, which we ask that you file 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 to the parties shown on the attached Certificate of Service.

ACK 4 Sincerely yours,

11-3
Harris R. Anthony
(24)

Enclosures

cc: All Parties of Record
A. M. Lombardo
R. Douglas Lackey

1 W/m

Jaw

DOCUMENT NUMBER-DATE

14460 DEC 14 1992

FPSC-RECORDS/REPORTING

CERTIFICATE OF SERVICE
Docket No. 920260-TL

I HEREBY CERTIFY that a copy of the foregoing has been
furnished by United States Mail this 14th day of Dec., 1992
to:

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Comprehensive Review of) Docket No. 920260-TL
the Revenue Requirements and Rate)
Stabilization Plan of Southern) Filed: December 14, 1992
Bell Telephone & Telegraph Company)
_____)

**SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S
MOTION TO QUASH SUBPOENAS, OR IN THE
ALTERNATIVE, FOR PROTECTIVE ORDER**

COMES NOW BellSouth Telecommunications, Inc., d/b/a Southern Bell Telephone and Telegraph Company ("Southern Bell" or "Company"), pursuant to Rule 25-22.037, Florida Administrative Code, and Rules 1.280 and 1.410, Florida Rules of Civil Procedure, and files its Motion to Quash Subpoenas, or in the Alternative, for a Protective Order, and states as grounds in support thereof the following:

1. On August 4, 1992, subpoenas were issued at the request of the Office of Public Counsel for C. J. Sanders and C. L. Cuthbertson, Jr. to appear before the Florida Public Service Commission (the "Commission") in the above-referenced matter on January 25, 1993. These subpoenas were subsequently served on Mr. Sanders and Mr. Cuthbertson, both of whom are Southern Bell employees who reside and work in Jacksonville, Florida. The hearing in this docket has been set to take place on January 25 through January 29, 1993, plus February 1, 3-5, and 8-10, 1993.

2. Southern Bell has not prefiled the testimony of either of these employees in this docket, nor does it intend to do so. Public Counsel took the deposition of these two employees (appearing as a panel) in Docket No. 910163-TL, Petition on behalf of Citizens of the State of Florida to initiate investigation into integrity of Southern Bell Telephone and Telegraph Company's repair service activities and reports on June 17, 1992. The deposition was also cross-noticed so that it was technically taken as a part of the instant docket as well. During this deposition, Mr. Cuthbertson and Mr. Sanders were deposed at length solely about issues that relate to Docket No. 910163-TL, specifically about discipline of Southern Bell employees. There were no questions asked during the deposition that relate to matters that are directly at issue in this docket. Moreover, no other party to this docket has taken the deposition of either of them to elicit information within their personal knowledge about any issue that the Prehearing Officer has held to be admissible in the January/February hearings in the Southern Bell rate case.

3. It is clear from the above-referenced circumstances that Public Counsel has subpoenaed these employees of Southern Bell for the sole purpose of examining them during the rate case hearing about matters that relate to Docket No. 910163-TL.

Indeed, Public Counsel has stated openly that his intent is to question these two persons regarding discipline decisions made by them concerning matters that are the subject of Docket No. 910163-TL.

4. The Additional Order on Prehearing Procedure entered in this docket on November 13, 1992 by the Prehearing Officer, however, states that "evidence relating to...[Docket No. 910163-TL]...will not be incorporated in the main hearings to be held in this docket beginning January 25, 1993." (Order No. PSC-92-1320-TL) Thus, Public Counsel is attempting to force the appearance of these two witnesses to testify about matters that have been expressly excluded by the Procedural Order from the January 25, 1992 hearings. This fact, standing alone, is sufficient to mandate the quashing of the subpoenas for these two witnesses to appear.

5. Moreover, Rule 1.410(2)(b), Florida Rules of Civil Procedure, provides that a subpoena may be quashed or modified if it is "unreasonable and oppressive."¹ Likewise, Rule 1.280(c), Florida Rules of Civil Procedure, provides that a protective

¹ Although this portion of the rule relates specifically to subpoenas for the production of documents at the time of hearing, Southern Bell submits that this Commission has the inherent authority under this rule to quash subpoenas to appear that are "unreasonable and oppressive."

order may be issued to protect a party or person from, among other things, "undue burden or expense."

6. Again, the instant situation is one in which these two witnesses have been subpoenaed to appear before the Commission on January 25, 1993, to give testimony that has been expressly prohibited until April by the Procedural Order. Further, although the subpoenas do not state this facially, it is reasonable to assume that it is the intention of Public Counsel to have these witnesses remain under subpoena and available to testify in Tallahassee until such time during the twelve days reserved for this hearing that Public Counsel would attempt to examine them. In other words, Public Counsel is attempting to subpoena two Southern Bell employees to travel from their respective residences in Jacksonville to Tallahassee and to remain there for an indefinite period when it is clear that their prospective testimony could only be on issues that the Prehearing Officer has specifically ruled will not be admitted during the January/February hearings.

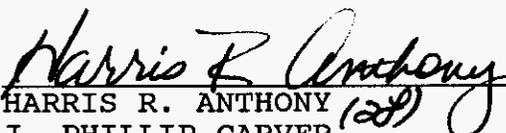
7. Public Counsel's attempt to require these witnesses to appear in response to this subpoena under these circumstances is unduly oppressive, burdensome and unreasonable. For this additional reason, Southern Bell requests, on behalf of these witnesses, that this Commission quash the subpoenas issued as to

each of them, or alternatively, enter a protective order relieving them from the obligation to appear in response to the subpoenas.

WHEREFORE, Southern Bell respectfully requests the entry of an order to quash the subpoenas or, alternatively, granting a protective order on the basis set forth above.

Respectfully submitted,

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