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December 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 Staff's Twenty-Fifth Request for Production of Documents dated November 18, 1992, and its 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.
Sidney J. White, Jr. (sj)

Enclosures

cc: ~~_____~~ All Parties of Record
EAG ~~_____~~ A. M. Lombardo
LEG ~~_____~~ H. R. Anthony
LEG ~~_____~~ R. D. Lackey
LN ~~_____~~ 6
DPC ~~_____~~
DRI ~~_____~~
DPC ~~_____~~ 1
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for [unclear]

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CERTIFICATE OF SERVICE
Docket No. 910163-TL

I HEREBY CERTIFY that a copy of the foregoing has been
furnished by United States Mail this 23rd 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

Sidney J. White, Jr.
(07)

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 23, 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-FIFTH 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 (1) pursuant to Rule 25-22.034 Florida Administrative Code, and Rule 1.350, Florida Rules of Civil Procedure, files its Response and Objections to Staff's Twenty-Fifth Request for Production of Documents dated November 18, 1992 and (2) pursuant to Rule 1.280(c), Florida Rules of Civil Procedure, its Motion for Protective Order.

MOTION FOR PROTECTIVE ORDER

The documents requested by Staff in its Twenty-Fifth Request for Production of Documents are privileged documents. Thus, pursuant to 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 response to Request No. 1 set forth herein further specifies the basis on which the documents are deemed to be privileged. Moreover, Public Counsel has previously requested the identical information, and Southern Bell has consistently asserted that

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these documents are privileged. See Southern Bell's Response and Objections to Public Counsel's Thirty-Third Request for Production of Documents and Motion for Protective Order filed December 7, 1992; Southern Bell's Response and Objections to Request Nos. 7, 8, and 9 of Public Counsel's Twenty-Fourth Request for Production of Documents and Motion for Protective Order filed July 8, 1992; and Southern Bell's Response and Objections to Request No. 1 of Public Counsel's Third Request for Production of Documents and Motion for Protective Order filed August 12, 1992 in Docket No. 910727-TL, which has now been merged into this docket.

GENERAL RESPONSE AND OBJECTIONS

1. Southern Bell objects to Staff's definition of "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. 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).

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.,
486 So. 2d 654 (Fla. App. 3rd District 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 literally mean 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 objects because this request calls for the production of documents that were generated at the direct request of, and under the supervision of, attorneys for Southern Bell. These documents

were developed in anticipation of litigation and were the basis upon which legal opinions were rendered to Southern Bell by its attorneys. Accordingly, Southern Bell objects to the production of these documents on the basis of the attorney-client and work product privileges. This request seeks the production of documents Southern Bell has consistently maintained to be privileged documents in this docket, and the Company incorporates by reference herein all arguments previously made in support of the Company's consistent position relating to these documents. (See Motion for Protective Order set forth above for citations to previous Company responses asserting privilege with respect to the documents sought by Staff in this document request.)

Respectfully submitted this 23rd day of December 1992.

SOUTHERN BELL TELEPHONE
AND TELEGRAPH COMPANY

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