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February 9, 1993

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-Seventh Request for Production of Documents dated January 4, 1993 and its Motions for Permanent and Temporary Protective Orders. Please file these documents in the above-captioned docket.

ACK ✓
A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me.
ACA Copies have been served on the parties shown on the attached Certificate of Service.
CAF

Sincerely,


Sidney J. White, Jr.

CML
CTR
EAG
LEG 1 w/m
LIN 6 Enclosures
OPC
cc: All Parties of Record
ROH A. M. Lombardo
SEC 1 H. R. Anthony
WAS R. D. Lackey
GTH

RECEIVED & FILED



FPSC BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

01574 FEB-93

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 9th day of February, 1993 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 "Tracy Hatch", written over a horizontal line. The signature is fluid and stylized, with a prominent loop at the end.

DOCUMENT NUMBER-DATE

01574 FEB-93

FACCS-REGISTRATION REPORTING

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: February 9, 1993
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-SEVENTH REQUEST FOR PRODUCTION OF DOCUMENTS
AND ITS MOTIONS FOR PERMANENT AND TEMPORARY PROTECTIVE ORDERS

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 of the Florida Rules of Civil Procedure, its Responses and Objections to the Office of Public Counsel's ("Public Counsel") Thirty-Seventh Request for Production of Documents dated January 4, 1993, and (2) pursuant to Rule 1.280(c), Florida Rules of Civil Procedure, its Motion for Permanent Protective Order, and (3) pursuant to Rule 25-22.006, Florida Administrative Code, its Motion for Temporary Protective Order.

MOTION FOR PERMANENT PROTECTIVE ORDER

Some of the documents requested by Public Counsel in its Thirty-Seventh Request for Production of Documents are privileged documents. Specifically, Public Counsel has requested that Southern Bell produce all documents responsive to Staff's Twenty-Seventh Request for Production of Documents which sought copies of each statement or notes taken from the questioning of individuals in conjunction with any Company investigation

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PAC'S RECORDS/REPORTING

conducted regarding trouble reports. This request, as framed, encompasses the privileged internal investigations commissioned, supervised, and participated in by the Legal Department relating to these matters. The statements created and any notes taken therefrom constitute the majority of the substantive record of such internal investigations which were conducted in anticipation of litigation. This information is privileged on the basis of the Attorney-Client Privilege and Work Product Doctrine, or both. 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. 2 set forth herein also specifies the basis on which documents or portions of documents are deemed to be privileged.

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, internal audit reports and related documentation and customer-specific account and billing information. This information is included as proprietary

confidential business information under to § 364.183, Florida Statutes and Rule 25-22.006, Florida Administrative Code. 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 objects to Public Counsel's proposed "Instruction" relating to details of privileged documents. To the extent a document responsive to any of the requests is subject to an applicable privilege, some of the information requested by Public Counsel would be similarly privileged and therefore not subject to discovery.

2. Southern Bell objects to Public Counsel's Instruction requesting "... a description of the sequence or order of the documents..." being produced. Such a request is patently unreasonable. The "sequence or order" of documents being produced is readily apparent; therefore, Public Counsel's request for a narrative description of what can be easily determined based on a review of the documents themselves is unnecessary and objectionable.

3. 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).

4. 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 be directed only 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).

5. 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.

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

SPECIFIC RESPONSES

7. Since Public Counsel has requested that Southern Bell produce all documents responsive to Staff's Twenty-Seventh Request for Production of Documents, Southern Bell will reference Staff's individual request numbers for purposes of responding to Public Counsel's request in this case.

8. With respect to Public Counsel's request for documents responsive to Staff's Request No. 1, Southern Bell will produce responsive documents that are in its possession, custody, or control at a mutually convenient time and place.

9. With respect to Public Counsel's request for documents responsive to Staff's Request No. 2, Southern Bell objects to this request on the basis that it calls for the production of documents which were generated directly by, or at the direct request of and under the direct supervision of, attorneys for Southern Bell. Specifically, these documents are statements generated by persons interviewed during the course of the privileged investigations and notes taken or derived therefrom. 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 Privilege and Work Product Doctrine. This request seeks the production of documents which Southern Bell has consistently maintained to be privileged documents in this docket, and the Company incorporates by reference herein all arguments previously made in numerous motions and responsive pleadings made in support of the Company's consistent position relating to documents constituting the substantive record of the Legal Department's privileged internal investigations (citations omitted).

10. With respect to Public Counsel's request for documents responsive to Staff's Request No. 3, Southern Bell will produce responsive documents that are in its possession, custody, or control at a mutually convenient time and place.

11. With respect to Public Counsel's request for documents responsive to Staff's Request No. 4, Southern Bell objects to this request on the basis that it calls for the production of proprietary confidential business information in the form of employee-specific personnel information unrelated to compensation, duties, responsibilities or qualifications. This information is proprietary confidential business information pursuant to Section 364.183(f), Florida Statutes.

Notwithstanding this objection, Southern Bell will produce responsive documents that are in its possession, custody, or control at a mutually convenient time and place, subject to its Motion for Temporary Protective Order set forth above.

12. With respect to Public Counsel's request for documents responsive to Staff's Request No. 5, Southern Bell objects to this request on the basis that it calls for the production of proprietary confidential business information in the form of customer-specific information. This Commission has historically protected this type of information from public disclosure in recognition of Southern Bell's customers' legitimate privacy interests. Notwithstanding this objection, Southern Bell will produce responsive documents that are in its possession, custody,

or control at a mutually convenient time and place, subject to its Motion for Temporary Protective Order set forth above.

13. With respect to Public Counsel's request for documents responsive to Staff's Request No. 6, Southern Bell will produce responsive documents that are in its possession, custody, or control at a mutually convenient time and place.

14. With respect to Public Counsel's request for documents responsive to Staff's Request No. 7, Southern Bell will produce responsive documents that are in its possession, custody, or control at a mutually convenient time and place.

15. With respect to Public Counsel's request for documents responsive to Staff's Request No. 8, Southern Bell will produce responsive documents that are in its possession, custody, or control at a mutually convenient time and place.

16. With respect to Public Counsel's request for documents responsive to Staff's Request No. 9, Southern Bell objects to this request on the basis that it calls for the production of proprietary confidential business information in the form of internal audit reports and documentation and customer-specific account and billing information. Internal audit reports and documentation is proprietary confidential business information pursuant to § 364.183(b), Florida Statutes. Customer-specific account and billing information is exempt from the inspection and examination provisions of § 119.07(3)(w), Florida Statutes, and pursuant to the Commission's historical handling of customer-specific information as proprietary. Notwithstanding

these objections, Southern Bell will produce responsive documents that are in its possession, custody, or control at a mutually convenient time and place, subject to its Motion for Temporary Protective Order set forth above.

17. With respect to Public Counsel's request for documents responsive to Staff's Request No. 10, see Southern Bell's response to Request No. 5.

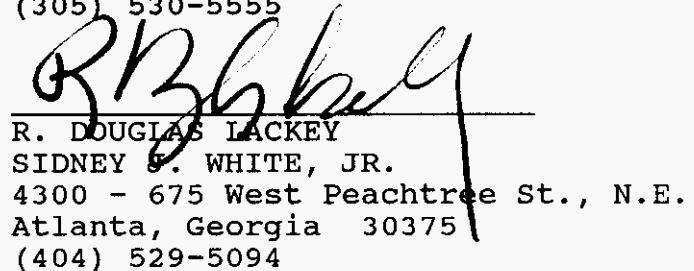
18. With respect to Public Counsel's request for documents responsive to Staff's Request No. 11, see Southern Bell's response to Request No. 8.

Respectfully submitted this 9th day of February, 1993.

SOUTHERN BELL TELEPHONE
AND TELEGRAPH COMPANY


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