

SIDNEY J. WHITE, JR.
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Southern Bell Telephone
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February 15, 1993

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

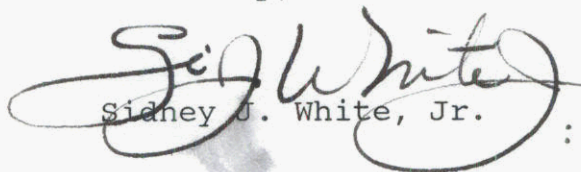
RE: Docket No. 910163-TL

Dear Mr. Tribble:

Enclosed are an original and fifteen copies of Southern Bell Telephone and Telegraph Company's Request for Confidential Classification. Please file these documents 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

RECEIVED & FILED

KF
EPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE
01764 FEB 15 88
EPSC-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 15th 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 "Sigla White", written over a horizontal line.

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 15, 1993
Telephone and Telegraph Company's)
Repair Service Activities and)
Reports.)
_____)

SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION

COMES NOW, BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company ("Southern Bell" or "Company"), and files pursuant to Rule 25-22.006, Florida Administrative Division Code, its Request for Confidential Classification for certain information contained in documents produced in response to Staff's Twenty-Seventh Request for Production of Documents dated December 18, 1992.

1. On December 27, 1992, Staff served its Twenty-Seventh Request for Production of Documents on Southern Bell. Certain of the documents, or portions thereof, sought by Staff contained proprietary confidential business information.

2. On January 25, 1993, Southern Bell filed its Notice of Intent to Request Confidential Classification ("Notice") for certain documents, or portions thereof, on the grounds that such documents contained proprietary confidential business information.

3. Southern Bell is now filing its Request for Confidential Classification for documents or portions of documents produced for Staff which contain employee-specific information unrelated to compensation, duties, qualifications, or responsibilities, customer-

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specific account and billing information, and vendor-specific software-related information.¹

4. Southern Bell has appended to this Request for Confidential Classification as Attachment A a listing showing the location in the documents of the information designated by Southern Bell as confidential.

5. Appended hereto in a package designated as Attachment B are two edited copies of the documents with the confidential information deleted.

6. Attached as Attachment C is a sealed package containing copies of the documents with the material which is confidential and proprietary highlighted. Copies of Attachment C are not being served on the other parties in this proceeding.

7. With respect to the documents, or portions thereof, produced for Staff and specifically referenced in Attachment A as containing employee-specific personnel information unrelated to compensation, duties, qualifications, or responsibilities, such information is specifically included in § 364.183(3)(f), Florida Statutes, as proprietary confidential business information exempt from the public inspection and examination provisions of § 119.07(1), Florida Statutes. These documents include records of personnel actions and procedures relating to employee activities that would fall outside normal and acceptable duties and responsibilities.

¹ Southern Bell stated in its original response that it would produce certain documents in response to Request No. 9, subject to a Notice of Intent to Request Confidential Classification. Subsequent review indicates that Southern Bell has no documents responsive to Request No. 9. Consequently, Southern Bell hereby withdraws its Notice of Intent to Request Confidential Classification as it relates to Request No. 9.

Further, the documents do not relate to the employee's normal compensation or to any qualifications for employment. See also: Southern Bell's pending Request for Confidential Classification and Motion for Permanent Protective Order filed in this docket on September 9, 1992 ("Request and Motion"). Consequently, these documents consist of employee information unrelated to normal compensation and qualifications or to the employee's defined duties and responsibilities. Id.

8. The documents, or portions of documents, for which confidential classification is being sought obviously mention the names of the employees and facts surrounding any personnel-related actions that may have been taken regarding such individuals. The public disclosure of such information could unnecessarily subject such employees to public embarrassment, humiliation, and consternation. Company personnel matters are intended to be private matters and are not intended to be subject to public scrutiny.

9. Southern Bell has previously asserted in its pending September 9, 1992 Request and Motion that the names of employees who were investigated or disciplined as a result of the repair service investigation are proprietary confidential business information. Southern Bell reasserts these arguments here and incorporates by reference herein the arguments contained in the Request and Motion on the issue of the inappropriateness of the public release of these employees' names.

10. In addition to the compelling arguments already made herein, as well as in the Company's September 9, 1992 Request and Motion, pursuant to § 119.14, Florida Statutes, the names and other

sensitive personal information relating to individuals affected by the internal corporate investigations relating to matters at issue in this docket should not be publicly released. In providing the applicable criteria for the legislature to use in creating or maintaining public records exemptions under Florida's Sunset Review procedures, § 119.14, Florida Statutes clearly recognizes that information of a sensitive personal nature, including the name or names of individuals, should be exempt from public disclosure under certain circumstances, particularly if the release of the information, "... would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals ..." § 119.14(4)(b)(2), Florida Statutes.

11. The above-stated test is one of three elements that are required to be considered by the legislature in determining whether to create or continue an exemption from the public records act. Thus, the clear legislative intent is to protect such information from public scrutiny. The release of such sensitive personnel information of an employee-specific nature would serve no public purpose, could do irreparable damage to their public reputations and good names in their communities, and is expressly recognized by the legislature as being worthy of protection under these circumstances. No legitimate purpose could possibly be served through the unrestricted public disclosure of these proprietary and confidential internal Company investigative materials in their present form.

12. With respect to the documents, or portions thereof, produced for Staff and specifically referenced in Attachment A as including customer-specific network service information, this

information is entitled to confidential classification on the basis that it is information relating to identifiable customers and the specific services provided by the Company to these customers. The Commission has always zealously protected customer-specific information from public disclosure in order to protect the customers' legitimate expectations of privacy and confidentiality of these records. Moreover, § 119.07(3)(w), Florida Statutes, provides that documents supplied by a telecommunications company to a state agency, such as this Commission, which contain the names, addresses, and telephone numbers of subscribers are specifically exempt from the inspection and examination provisions of § 119.07(1), Florida Statutes. Finally, to the extent that this information is considered to be Customer Proprietary Network Information (CPNI), pursuant to existing federal and state CPNI rules, Southern Bell is restricted in the manner in which it discloses such information to other parties as well as to certain of its internal marketing personnel. Consequently, it would be anomalous if Southern Bell were compelled to publicly disclose information which it is otherwise restricted from disclosing pursuant to the existing CPNI rules.

13. With respect to the document produced for Staff and specifically referenced in Attachment A as including vendor-specific software-related information, the information in this document is entitled to confidential classification on the basis that it reflects proprietary, vendor-specific software features and instructions regarding the proper use of the proprietary software purchased by Southern Bell from such vendor. If this information were to be publicly disclosed, a person possessing such information and gaining

access to Southern Bell's LMOS System could improperly and detrimentally manipulate the system, causing damage of significant proportions to the system. Public disclosure of this information would also impair Southern Bell's future ability to contract for goods and/or services on favorable terms with its vendors, who would be hesitant or unwilling to provide this valuable information to Southern Bell if it were subject to public disclosure. Finally, in this case, Southern Bell has entered into a license agreement with its vendor providing for non-disclosure of the software-related information contained in the program application instruction manual in order to give assurances that the details regarding the vendor's software capabilities and other vendor-specific information are not publicly disclosed. Consequently, §§ 364.183(3) and (3)(d), Florida Statutes, both provide for this information to be classified as confidential because vendor-specific information which is subject to a binding non-disclosure agreement is specifically entitled to classification as proprietary confidential business information and because the public disclosure of the information contained in the manual would harm Southern Bell's ability to negotiate future contracts with its vendors on favorable terms.

14. Southern Bell has treated and intends to continue to treat the material for which confidential classification is sought as private, and this information has not been generally disclosed.

WHEREFORE, based on the foregoing, Southern Bell moves the Prehearing Officer to enter an order declaring the information described above and contained in the indicated portions of the

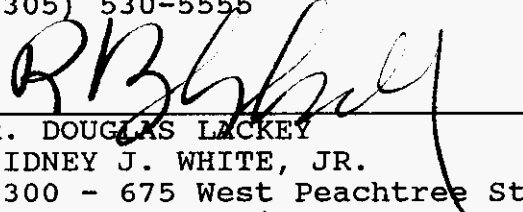
attachments to be proprietary confidential business information, and thus not subject to public disclosure.

Respectfully submitted this 15th day of February, 1993.

SOUTHERN BELL TELEPHONE
AND TELEGRAPH COMPANY


HARRIS R. ANTHONY (AR)

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FPSC DOCKET 910163-TL

FPSC STAFF'S 27TH PRODUCTION OF DOCUMENTS
RCC

JUSTIFICATION FOR CONFIDENTIALITY REQUEST

1. The confidential and proprietary information that is contained in this listing is all employee-personnel information that is not related to compensation, duties, qualifications, or responsibilities. Accordingly, these documents are exempted from the Public Records Act by the express provisions of Section 364.183 (f), Florida Statutes.

LOCATION OF THE PROPRIETARY INFORMATION

<u>PAGE NO.</u>	<u>LINE NOS./COL. NO.</u>	<u>REASON</u>
F03B27Z0000012	26, 28	1
0000013	2, 6, 10, 14, 18, 22, 24	1
0000014	3, 4	1
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0000016	3, 4, 9	1
0000026	3, 4, 8	1
0000036	3, 4, 9	1
0000037	2	1
0000038	3	1
0000039	3, 4	1
0000040	3	1

FPSC DOCKET 910163-TL

FPSC STAFF'S 27TH PRODUCTION OF DOCUMENTS
RCC

JUSTIFICATION FOR CONFIDENTIALITY REQUEST

1. The information sought to be classified as confidential below consists of customer-specific information, such as names, addresses and other customer information. This information is exempt from public disclosure pursuant to Section 119.07(3)(w), Florida Statutes, as well as pursuant to the Commission's historical handling of such information as proprietary confidential business information in recognition of customers' legitimate privacy interests.

LOCATION OF THE PROPRIETARY INFORMATION

<u>PAGE NO.</u>	<u>LINE NOS./COL. NO.</u>	<u>REASON</u>
F03B2Z0000044	2-4, 6, 7, 9, 10, 12, 13, 15, 16, 18, 19, 21, 22, 24, 25, 27-29, 31, 32, 34, 35, 37, 38, 40, 41, 43, 44	1
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0000050 & 0000051	2-4, 6-8, 10-12, 14-16, 18-20, 22-24, 26-28, 30-32, 34-36	
0000052	2-5, 7-9, 11-13, 15-17, 19-21, 23-25, 27-29, 31-33, 35-37	1
0000055	2, 4, 6, 8, 10, 12, 14, 15, 18, 20, 22, 24	1

FPSC DOCKET 910163-TL

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RCC

JUSTIFICATION FOR CONFIDENTIALITY REQUEST

1. The following document contains vendor-specific software information and is governed by a License Agreement which provides that the information contained therein will not be released to the public. Also, public release of such vendor-specific proprietary information could impede Southern Bell's ability to contract for goods and services from vendors on favorable terms and conditions. Pursuant to Section 364.183(3) and (3)(d), Florida Statutes, this information is expressly deemed to be proprietary confidential business information exempt from the public examination and inspection provisions of Section 119.07(i), Florida Statutes.

LOCATION OF THE PROPRIETARY INFORMATION

<u>PAGE NO.</u>	<u>LINE NOS./COL. NO.</u>	<u>REASON</u>
F03B27Z0000056- 0000101	Entire document	1