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March 10, 1993

Steve Tribble, Director  
Division of Records and Reporting  
Florida Public Service Commission  
101 East Gaines Street  
Tallahassee, FL 32399-0850

Re: Docket No. 910163-TL

Dear Mr. Tribble:

Enclosed for filing in the above-captioned proceeding on behalf of the Citizens of the State of Florida are the original and 15 copies of Citizens' Response to Southern Bell's Motion for a Temporary Protective Order.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

Sincerely,

*Charles J. Beck*  
Charles J. Beck  
Deputy Public Counsel

Enclosure

- ACK
- AFA
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU
- CTR \_\_\_\_\_
- EAG \_\_\_\_\_
- LEG
- LIN
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EPSC/REC/REP

DOCUMENT NUMBER-DATE  
02679 MAR 10 83  
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the )  
Integrity of Southern Bell's )  
Repair Service Activities and )  
Reports )  
\_\_\_\_\_ )

Docket No. 910163-TL  
Date filed: March 10, 1993

**CITIZENS RESPONSE AND OPPOSITION TO SOUTHERN  
BELL'S MOTION FOR A TEMPORARY PROTECTIVE ORDER**

The Citizens of Florida ("Citizens"), by and through Jack Shreve, Public Counsel, file this response and opposition to the "motion for a temporary protective order for its responses to Public Counsel's third and fifth set of interrogatories, originally filed in docket 910163-TL" filed by BellSouth Telecommunications, Inc., d/b/a/ Southern Bell Telephone and Telegraph Company ("Southern Bell") on February 26, 1993.

1. Southern Bell seeks confidential treatment of the identity of employees who have knowledge about certain repair service activities and reports.

2. Section 364.183, Florida Statutes (1991) states that the term "proprietary confidential information" includes, but is not limited to, employee personnel information unrelated to duties or responsibilities. Fla. Stat. § 364.183(3)(f) (1991) (emphasis added). The trouble with Southern Bell's argument is that the

identification of employees knowledgeable about Southern Bell's repair service activities and reports is related to the employees' duties and responsibilities. The statute implies that such information should not be shielded from public disclosure.

3. Southern Bell's motion fails to recognize that the Commission ruled against Southern Bell in a number of similar circumstances. See Order Denying Southern Bell Telephone and Telegraph Company's Motion for Confidential Treatment of Document No. 3878-91, 91 F.P.S.C. 10:356 (Oct. 1991) (Order no. 25238); Order Denying Southern Bell Telephone and Telegraph's Request for Confidential Classification of Document No. 0372-91, 91 F.P.S.C. 10:353 (Oct. 1991) (Order no. 25237); and Order Denying Request for Confidentiality, 91 F.P.S.C. 3:334 (Mar. 1991) (Order no. 24226) [hereinafter Order 24226].<sup>1</sup>

4. Southern Bell itself previously recognized that the names of employees in similar circumstances are not confidential. See Southern Bell Tel. & Tel. Co.'s Amendment to its Response and Objections to Public Counsel's Request for Production of Documents and Motion for a Temporary Protective Order (May 6, 1991, Docket 900960-TL). In that amendment Southern Bell dropped its request for confidential treatment of employee names and employee specific information, except for employee social security numbers.

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<sup>1</sup> In connection with this last order, See also letter from Attorney General Robert A. Butterworth to Chairman Thomas M. Beard dated March 6, 1991, at page 2.

5. The Commission has clearly determined the issue of whether employee names qualify for confidential treatment under these circumstances. Ruling that Southern Bell's employees' names and titles are not eligible for proprietary treatment, the Commission stated that

[in] order to readily evaluate the relationship between compensation, duties, qualifications or responsibilities of an individual as well as the reliability of such information, it may well be necessary to identify the individuals. This is particularly so in this case where the actions of individuals are under scrutiny to determine whether these actions were sanctioned by or attributed to the company.

Order 24226 at 3:337.

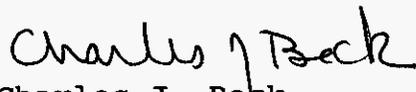
6. Southern Bell has repeatedly failed to demonstrate that the names of their employees should be granted per se confidential treatment under section 364.183(3)(f), Florida Statutes. Southern Bell also has failed to demonstrate "that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations." Fla. Stat. § 364.183(3). As the First District Court of Appeals has recognized, the Commission must narrowly construe section 364.183(3), Florida Statutes, in the exercise of its discretionary powers. Southern Bell Tel. & Tel. Co. v. Beard, et. al, 597 So. 2d 873, 876 (Fla. 1st DCA 1992). A liberal interpretation would be contrary to the legislative intent

of keeping public records open to the public. See id.

WHEREFORE, the Citizens oppose Southern Bell's request for a temporary protective order.

Respectfully submitted,

Jack Shreve  
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Charles J. Beck  
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**CERTIFICATE OF SERVICE  
DOCKET NO. 920260-TL**

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail or hand-delivery to the following parties on this 10th day of March, 1993.

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