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March 15, 1993

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

Re: Docket No. 920260-TL

Dear Mr. Tribble:

Enclosed for filing in the above-referenced docket on behalf of the Citizens of the State of Florida are the original and 15 copies of the Citizens' Response to Southern Bell's Request for Confidential Classification and Motion for a Permanent Protective Order.

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

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Sincerely,

Charles J. Beck

Charles J. Beck
Deputy Public Counsel

Enclosure

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Jean
FPSC BUREAU OF RECORDS

DOCUMENT NUMBER-DATE
02816 MAR 15 83
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Comprehensive Review of the)
Revenue Requirements and Rate)
Stabilization Plan of Southern)
Bell Telephone and Telegraph)
Company)
_____)

Docket No. 920260-TL
Date filed: March 15, 1993

CITIZENS' RESPONSE TO SOUTHERN BELL'S REQUEST FOR CONFIDENTIAL CLASSIFICATION AND MOTION FOR A PERMANENT PROTECTIVE ORDER

The Citizens of Florida ("Citizens"), by and through Jack Shreve, Public Counsel, file this response to the request for confidential classification and motion for a permanent protective order filed by BellSouth Telecommunications, Inc., d/b/a/ Southern Bell Telephone and Telegraph Company ("Southern Bell") on March 1, 1993. Southern Bell's pleading concerns the testimony of R. Earl Poucher filed by the Citizens on February 15, 1993.

1. Southern Bell seeks confidential treatment of the identity of employees who have knowledge about certain activities and who may have been disciplined by the company.

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

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identification of employees in Mr. Poucher's testimony 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].¹

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.

¹ 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.

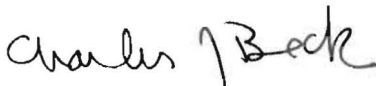
Order 24226 at 3:337.

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.

Respectfully submitted,

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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 15th day of March, 1993.

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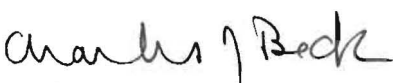
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