

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Comprehensive review of ) DOCKET NO. 920260-TL  
the revenue requirements and )  
rate stabilization plan of )  
SOUTHERN BELL TELEPHONE AND )  
TELEGRAPH COMPANY. )  
\_\_\_\_\_)  
In Re: Show cause proceedings ) DOCKET NO. 900960-TL  
against SOUTHERN BELL TELEPHONE )  
AND TELEGRAPH COMPANY for )  
misbilling customers. )  
\_\_\_\_\_)  
In Re: Petition on behalf of ) DOCKET NO. 910163-TL  
Citizens of the State of Florida )  
to initiate investigation into )  
integrity of SOUTHERN BELL )  
TELEPHONE AND TELEGRAPH )  
COMPANY'S repair service )  
activities and reports. )  
\_\_\_\_\_)  
In Re: Investigation into ) DOCKET NO. 910727-TL  
SOUTHERN BELL TELEPHONE AND ) ORDER NO. PSC-93-0799-CFO-TL  
TELEGRAPH COMPANY's compliance ) ISSUED: May 25, 1993  
with Rule 25-4.110(2), F.A.C., )  
Rebates. )  
\_\_\_\_\_)

ORDER DENYING REQUEST FOR CONFIDENTIAL  
CLASSIFICATION OF DOCUMENT NO. 2201-93

On February 25, 1993, BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company filed a Request for Confidential Classification of specified information provided in its Late-filed Exhibit 1 from the February 9, 1993 deposition of R. G. Barrere. The Response has been assigned Document No. 2201-93 by the Commission.

Florida law provides, in Section 119.01, Florida Statutes, that documents submitted to governmental agencies shall be public records. This law derives from the concept that government should operate in the "sunshine." The only exceptions to this law are specific statutory exemptions and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision.

Accordingly, pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, it is the Company's burden to show that the material submitted is qualified for specified confidential classification. Rule 25-22.006 provides

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that the Company may fulfill its burden by demonstrating that the documents fall into one of the statutory examples set forth in Section 364.183 or by demonstrating that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

To this end, the Company asserts that the material includes information developed at a significant cost solely for the internal use of Southern Bell. The Company asserts that the information represents research developed by Southern Bell which should not be given free of charge to entities which compete with Southern Bell. The Company further asserts that possession of the material would assist Southern Bell's competitors in establishing customer strategy. The Company maintains that the material is exempt from the Open Records Act as a trade secret under §364.183, Florida Statutes. The Company asserts that the material for which confidential treatment is sought was intended to be and is treated by the Company as private and has not been disclosed on a nonconfidential basis.

The material in question is a survey used by Southern Bell to assess the quality of service perceived by business and residential customers. The material consists of the survey itself not the data derived from the survey. The very nature of a survey requires it be disclosed to be of use. The very act of surveying discloses the survey. Furthermore, while Southern Bell argues that disclosure would result in harm to the Company, it fails to define the harm or the manner in which the material could be used by Southern Bell's competitors. Therefore, the material cannot be classified as proprietary confidential business information pursuant to Section 364.183(3)(a),(e), Florida Statutes. Accordingly, the Company's Request for Confidential Classification of Document No. 2201-93 is denied.

Based upon the foregoing, it is

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company's Request for Confidential Classification of Document No. 2201-93 is denied.

ORDER NO. PSC-93-0799-CFO-TL  
DOCKETS NOS. 920260-TL, 900960-TL, 910163-TL, 910727-TL  
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By ORDER of Commissioner Susan F. Clark, as Prehearing  
Officer, this 25th day of May, 1993.

  
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SUSAN F. CLARK, Commissioner and  
Prehearing Officer

( S E A L )

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.