

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Comprehensive review of revenue requirements and rate stabilization plan of SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY.)	DOCKET NO. 920260-TL
)	
)	
)	
)	
)	
)	
In re: Investigation into the integrity of SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S repair service activities and reports.)	DOCKET NO. 910163-TL
)	
)	
)	
)	
)	
)	
In re: Investigation into SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S compliance with Rule 25-4.110(2), F.A.C, Rebates.)	DOCKET NO. 910727-TL
)	
)	
)	
)	
)	
)	
In re: Show cause proceeding against SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY for misbilling customers.)	DOCKET NO. 900960-TL
)	ORDER NO. PSC-93-1046-CFO-TL
)	ISSUED: July 19, 1993
)	
)	

**ORDER GRANTING IN PART AND DENYING IN PART SOUTHERN BELL'S
MOTION FOR CONFIDENTIAL CLASSIFICATION FOR PORTIONS OF
DOCUMENT NO. 4160-93
(DOCKET NO. 910163-TL)**

On April 16, 1993, BellSouth Telecommunications Inc. d/b/a Southern Bell Telephone and Telegraph Company (Southern Bell or the Company) filed a Request for Confidential Classification for the Company's answers to the Office of Public Counsel's (Public Counsel's) Third Interrogatories, nos. 18 and 20, and its supplemental answers to Public Counsel's Third Interrogatories, nos. 1 through 10. (Southern Bell's motion).¹ A copy of its answers and supplemental answers, with the information for which

¹ In its motion, Southern Bell also seeks confidential classification for its answers to Public Counsel's Fifth Interrogatories, nos. 1 and 2, which incorporate by reference its response to Public Counsel's Third Interrogatories, nos. 1 through 10. It is only necessary that a ruling be made with regard to the confidential status of Southern Bell's answers to Public Counsel's Third Interrogatories, nos. 1 through 10, since no confidential information is actually provided on the pages which contain Southern Bell's answers to Public Counsel's Fifth Interrogatories, nos. 1 and 2.

DOCUMENT NUMBER-DATE

07672 JUL 19 93

FTS00 RECORDS/REPORTING

the Company is requesting confidential treatment highlighted, was filed by Southern Bell with the Commission's Division of Records and Reporting on April 16, 1993, as Attachment "C" to Southern Bell's motion. Attachment "C" to Southern Bell's motion was assigned Document No. 4160-93. On April 21, 1993, the Company filed an amendment to its motion which simply corrected a deficiency in the Company's line-by-line justification found in Attachment "A" to Southern Bell's April 16, 1993 motion. On April 26, 1993, Public Counsel filed a response to Southern Bell's motion.

Documents filed with the Commission are public records subject to public disclosure under Section 119.07(1), Fla. Stat. (1991). Section 119.07(3), Fla. Stat., however, exempts from public disclosure those public records that are provided by statutory law to be confidential or which are expressly exempted by general or special law. In the absence of a specific statutory exemption, the Commission may not deny disclosure based upon a judicially created privilege of confidentiality² or based upon public policy considerations which attempt to weigh the benefits to be derived from public disclosure against the detriment to an individual institution resulting from such disclosure.³

Section 364.183, Fla. Stat. (1991) defines "proprietary confidential business information" as information which is one of the statutory examples set forth therein or information the disclosure of which will cause harm to Southern Bell or its ratepayers. Pursuant to Section 364.183 and Fla. Admin. Code Rule 25-22.006, Southern Bell has the burden of demonstrating that information is qualified for confidential classification under Section 364.183.

I. Southern Bell's Answers to Interrogatories Nos. 18 and 20 of Public Counsel's Third Interrogatories

Southern Bell seeks confidential classification for customer specific information found in its answers to Public Counsel's Third Interrogatories, nos. 18 and 20. In its answers to these

² Wait v. Florida Power & Light Co., 372 So.2d 420 (Fla. 1979).

³ Gadd v. News-Press Publishing Co., 412 So.2d 894, 895 (Fla. 2d DCA 1982).

interrogatories, Southern Bell provided the names, addresses and phone numbers of subscribers. The Company requests confidential treatment only for the subscribers' names and addresses. Public Counsel does not object to Southern Bell's request for confidential status for this customer specific information.

Section 119.07(w), Fla. Stat., exempts from public disclosure "all records supplied by a telecommunications company to a state . . . governmental agency which contain the name, address, and telephone number of subscribers" Accordingly, Southern Bell's request for confidential classification is granted for the following information found in Document No. 4160-93 identified by interrogatory no., page and line no.:

<u>Interrogatory No.</u>	<u>Page Nos.</u>	<u>Line Nos.</u>
18	33	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
	34	2, 3, 5-7, 9-11, 13, 14, 16, 17, 19, 20, 22, 23, 25, 26, 28, 29, 31, 32, 34, 35, 37, 38, 40, 41, 43-45
	35	2, 3, 5, 6, 8-10, 12-14, 16-18, 20, 21, 23, 24, 26, 27, 29-31, 33, 34, 36-38
20	40-41	2-4, 6-8, 10-12, 14-16, 18-20, 22-24, 26-28, 30-32, 34-36
	42	2-5, 7-9, 11-13, 15-17, 19-21, 23-25, 27-29, 31-33, 35-37
	45	2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24

II. Southern Bell's Supplemental Answers to Public Counsel's Third Interrogatories, Nos. 1 through 10

Southern Bell seeks confidential classification for the names, titles, business addresses and business telephone numbers of current employees and for the names, the former Southern Bell business addresses and former Southern Bell business telephone numbers of former employees. The current and former employees were identified as persons who may have knowledge regarding falsifying completion times on repair service forms, reports or records (no. 1), falsifying commitment times on repair service forms, reports or records (no. 2), recording "out-of-service" reports as "affecting service" on repair service forms, reports or records (no. 3), recording or reporting on repair service forms, reports or records that an extension of time for repairs was granted by a customer when the customer was not contacted (no. 4), reporting "access denied" by a customer, when access was not denied, on repair service forms, reports or records (no. 5), the use of recording improper exclusion codes on repair service forms, reports or records (no. 6), regarding changing "test OK" repair service forms, reports or records to "out-of-service" repair forms, reports or records (no. 7), subscriber repair reports recorded or reported as employee repair reports on repair service forms, reports or records (no. 8), fictitious repair service forms, reports or records (no. 9) and repair service forms, reports or records that are fraudulent or knowingly false in any respect (no. 10).

Section 364.183(3)(f), Fla. Stat., states that "proprietary confidential business information" includes "[e]mployee personnel information unrelated to compensation, duties, qualifications or responsibilities." In support of its position that this information falls within the specific exception to Florida's Public Records Act, found in Section 364.183(3)(f), the Company contends that information which identifies current or former employees who may have knowledge regarding the handling of Southern Bell repair service forms, reports or records is information unrelated to the employees' compensation, duties, qualifications or responsibilities. Public Counsel contends that the information is related to the current or former employees' duties or responsibilities as a Southern Bell employee and, hence, is not exempt from disclosure by Section 364.183(3)(f).

The identities of current or former employees who may have information regarding the handling of Southern Bell's repair service forms, reports or records is information related to the

employees' jobs and, therefore, it is employee personnel information which is related to duties or responsibilities. Hence, this information is not "proprietary confidential business information" as defined by the legislature in Section 364.183(3)(f) and it is information not exempt from public disclosure by that provision. In so ruling, it is noted that the statute does not distinguish personnel information relating to current employees from personnel information relating to former employees.

Moreover, the titles of current and former employees and information which identifies where these employees are or were located in the Southern Bell organization, such as their business addresses and business telephone numbers and the dates of employment with Southern Bell, to a large extent identifies that employee's duties and responsibilities. Hence, it is employee personnel information related to duties or responsibilities. As such, this information is not "proprietary confidential business information" as defined by the legislature in Section 364.183(3)(f) and is not exempt from public disclosure by that provision.

In sum, Southern Bell's request for confidential treatment for portions of its supplemental answers to Public Counsel's Third Interrogatories, nos. 1 through 10, found in Document No. 4160-93 is denied. Specifically, Southern Bell's request for confidential classification is denied for the following information identified by interrogatory no., page and line no.:

<u>Interrogatory No.</u>	<u>Page Nos.</u>	<u>Line Nos.</u>
1	47	23-32
	48	1-30
	49	1-35
	50	1-35
	51-62	1-30

⁴ Cf. Gadd v. News-Press Publishing Company, Inc., 412 So.2d 894 (Fla. 2d DCA 1982) (newspaper entitled under Ch. 119 to inspect the personnel files of past and present medical staff physicians of a public hospital).

ORDER NO. PSC-93-1046-CFO-TL
DOCKETS NOS. 920260-TL, 910163-TL, 910727-TL, 900960-TL
PAGE 6

<u>Interrogatory No.</u>	<u>Page Nos.</u>	<u>Line Nos.</u>
1	63	1-35
	64	1-30
	65	1-25, 29-33
	66-69	1-30
	70	1-25, 29-33
	66-69	1-30
	70	1-20, 24-33
	71	1-5, 10-19
2	72	24-34
	73-74	1-35
	75	1-30
	76	1-35
	77	1-30
	78	1-35
	79	1-30
	80	1-30
	81	1-35
	82	1-35
	83	1-10, 13-27
3	84	25-34
	85	1-30
	86	1-20, 24-33

ORDER NO. PSC-93-1046-CFO-TL
DOCKETS NOS. 920260-TL, 910163-TL, 910727-TL, 900960-TL
PAGE 7

<u>Interrogatory No.</u>	<u>Page Nos.</u>	<u>Line Nos.</u>
3	87-91	1-30
	92	1-20, 25-30
	93	1-30
	94	1-25
4	95	26-35
	96	1-30
	97	1-10, 14-33
	98	1-30
	99	1-25, 29-33
	100	5-9
5	101	25-34
	102	4-13
6	103	25, 26, 28-34
	104-108	1-30
	109	1-10, 14-33
	110	1-21, 23-30
	111	1-30
	112	1-11, 13-30
	113	1-5, 8-12
7	114	25-34
	115-116	1-30
	117	1-3, 6-30

ORDER NO. PSC-93-1046-CFO-TL
DOCKETS NOS. 920260-TL, 910163-TL, 910727-TL, 900960-TL
PAGE 8

<u>Interrogatory No.</u>	<u>Page Nos.</u>	<u>Line Nos.</u>
7	118	1-10, 13-22
8	119	26-35
	120	1-31
8	121	1-25, 30-34
	122	1-20
9	123	24-33
	124	4-33
	125	1-30
	126	1-15, 19-28
	127	1-10, 13-14, 16-17
10	128	25-34
	129	1-26, 28-30
	130	1-10, 15-34
	131	1-30
	132	1-25, 29-33
	133	1-10, 14-33
	134	1-25, 29-33
	135	1-5, 9-18, 22-31
	136	1-10, 13-32
	137	1-5

ORDER NO. PSC-93-1046-CFO-TL
DOCKETS NOS. 920260-TL, 910163-TL, 910727-TL, 900960-TL
PAGE 9

Based on the foregoing, it is, therefore,

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that Southern Bell's request for confidential classification for portions of Document No. 4160-93 is granted in part and denied in part as set forth in the body of this Order. It is further

ORDERED that pursuant to section 364.183, Fla. Stat., and Fla. Admin. Code Rule 25-22.006, any confidentiality granted to the documents specified herein shall expire eighteen (18) months from the date of issuance of this Order in the absence of a renewed request for confidentiality pursuant to section 364.183. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 19th day of July, 1993.



SUSAN F. CLARK, Commissioner and
Prehearing Officer

(S E A L)
JRW

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Fla. Stat. (1991) to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Fla. Stat. (1991 & 1992 Supp.) 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 Fla. Admin. Code Rule 25-22.038(2), if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Fla. Admin. Code Rule 25-22.060, 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 Fla. Admin. Code Rule 25-22.060. 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 Fla. R. App. P. 9.100.