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ORIGINAL  
FILE COPY

July 29, 1993

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

RE: Docket Nos. 920260-TL, 900960-TL, 910163-TL, 910727-TL

Dear Mr. Tribble:

Enclosed are an original and fifteen copies of Southern Bell Telephone and Telegraph Company's Motions for Full Commission Review of Order Nos. PSC-93-1044-CFO-TL, PSC-93-1045-CFO-TL and PSC-93-1046-CFO-TL. Please file these documents in the above-captioned dockets.

A copy of this letter is enclosed. Please mark it to indicate that the originals were 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.*  
(3)

Sidney J. White, Jr.

Enclosures

cc: All Parties of Record  
A. M. Lombardo  
H. R. Anthony  
R. D. Lackey

1046  
DOCUMENT NUMBER-DATE  
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DOCUMENT NUMBER-DATE  
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**CERTIFICATE OF SERVICE**

**Docket No. 920260-TL**  
**Docket No. 900960-TL**  
**Docket No. 910163-TL**  
**Docket No. 910727-TL**

I HEREBY CERTIFY that a copy of the foregoing has been  
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Sidney J. White, Jr. (2)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Show cause proceeding )  
against Southern Bell Telephone )  
and Telegraph Company for )  
misbilling customers. )  
Docket No. 900960-TL

In re: Petition on behalf of )  
Citizens of the State of Florida )  
to initiate investigation into )  
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: Comprehensive review of )  
the revenue requirements and rate )  
stabilization plan of Southern )  
Bell Telephone and Telegraph )  
Company. )  
Docket No. 920260-TL  
Filed: July 29, 1993

SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S MOTION  
FOR FULL COMMISSION REVIEW OF ORDER NO. PSC-93-1044-CFO-TL

COMES NOW, BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company ("Southern Bell" or "Company"), and files, pursuant to Rule 25-22.038(2), Florida Administrative Code, its Motion for Full Commission Review of Order No. PSC-93-1044-CFO-TL issued on July 19, 1993 by the Prehearing Officer in the above-referenced dockets, and states as grounds in support thereof the following:

1. On February 15, 1993, Southern Bell filed a Request for Confidential Classification ("Request") for certain portions of

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documents produced in response to Staff's Twenty-Seventh Request for Production of Documents, Request Nos. 4, 5 and 6.

2. On July 19, 1993, the Prehearing Officer issued Order No. PSC-93-1044-CFO-TL granting in part and denying in part the Company's confidentiality requests.

The Prehearing Officer denied Southern Bell's request for confidential classification relating to certain employee specific personnel information produced in response to Staff's Request No. 4. This information, if publicly disclosed, could be defamatory to such individuals or could cause unwarranted damage to the good name or reputation of such individuals. Specifically, the information denied confidentiality consisted of the names of employees who filed grievances after Southern Bell disciplined such employees.

3. Southern Bell respectfully submits, on the basis of the pertinent facts and the controlling law cited herein, that the Order includes mistakes of law such that the full Commission should review and reverse this decision and hold that the names of these employees are protected from public disclosure. The previous arguments in Southern Bell's Request for Confidential Classification can be summarized as follows: The provisions of Florida Statutes, § 364.183 exempt from public disclosure certain information that would otherwise be subject to disclosure under Florida Statutes, Chapter 119. This exempt information includes all "employee personnel information unrelated to compensation, duties, qualifications or responsibilities." § 364.183(3)(f),

Florida Statutes. Further Section 364.183(3) specifically authorizes the exemption from public disclosure of any document that, if disclosed, "would cause harm to the Company's business operation...." In its Request, Southern Bell argued that the discipline of the employees in question was not, in a strict sense, related to their "compensation, duties, qualifications or responsibilities."

4. Chapter 119 creates the requirement of public disclosure of certain records. Sections 364.183 and 119.07 both list various types of information that are exempt from the requirement of public disclosure. In Section 119.14, Florida Statutes, the legislature has listed specifically the considerations that it will weigh in creating or maintaining exemption to the disclosure requirements of Chapter 119. In particular, Section 119.14 states that "[a] exemption may be created or maintained only if it serves an identifiable public purpose and may be no broader than is necessary to meet the public purpose it serves." Section 119.14(4)(b). (Emphasis added) The legislature then goes on to say that the need for an exemption is sufficiently "compelling to override the strong public policy of open government", if the exemption is necessary to accomplish one of two specifically designated public purposes. Section 119.14(4)(b)<sup>1</sup>. One of these purposes is to protect,

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<sup>1</sup> The other purpose set forth in Section 119.14(4)(b), the efficient administration of a governmental program, is not pertinent to our issue.

...[I]nformation of a sensitive personal nature concerning individuals, the release of which information would be defamatory to such individual or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals.

Section 119.14(4)(b)2.

Thus, the legislature has clearly stated that there is good reason for an exemption to the public disclosure requirement if it serves to protect individuals from unwarranted damage that would result from this disclosure. Company disciplinary proceedings are usually private corporate matters, dealt with on an internal basis. These matters are not intended to be publicly aired, and the public disclosure of details of these disciplinary matters could clearly subject the affected employees to public embarrassment and scorn. This is exactly the type of "unwarranted damage" contemplated in Section 119.14(4)(6)(2), Florida Statutes.

5. If this Commission does not consider the damaging effect of the public release of this information concerning Southern Bell employees, then it will have done nothing more than mechanically apply the language of Section 364.183 without considering the intent of the legislature in creating this exemption. It appears that this is the approach that was taken by the Prehearing Officer, and it is for this reason that the subject Order is erroneous. This Commission should give effect to the legislative intent and correct the error that is inherent in the subject order by balancing the potentially grave damage to

Southern Bell employees against the negligible benefit of publicly disclosing the identities of these employees. For this reason, Southern Bell submits that this Commission should consider the damaging effects of public disclosure of this information, conclude that it outweighs any benefit from public disclosure and allow confidential treatment for the information at issue.

WHEREFORE, Southern Bell Telephone and Telegraph Company respectfully requests the entry of an Order granting its Motion for Full Commission Review, setting aside Order No. PSC-93-1044-CFO-TL, and ruling that Southern Bell is entitled to confidential classification for the information at issue.

Respectfully submitted this 29th day of July, 1993.

SOUTHERN BELL TELEPHONE  
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