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RECEIVED
FILE COPY

February 21, 1994

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; 910163-TL;
910727-TL and 900960-TL

Dear Mr. Tribble:

Enclosed please find an original and fifteen copies of Southern Bell Telephone and Telegraph Company's Motion for Reconsideration of Order No. PSC-93-0166-CFO-TL, which we ask that you file in the captioned dockets.

ACK
AFA 1
APP _____
CAF _____
CMU 6
CTR _____
EAG _____
LEG W/m
LIN 6
OPC _____
RCH _____
SEC 1
WAS _____
OTH _____

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely yours,
J. Phillip Carver
J. Phillip Carver

cc: All Parties of Record
A. M. Lombardo
Harris R. Anthony
R. Douglas Lackey

RECEIVED & FILED

JJ

A BELLSOUTH Company

DOCUMENT NUMBER-DATE

01714 FEB 21 94

FPSC-RECORDS/REPORTING

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

In re: Request by Broward Board)
of County Commissioners for)
extended area service between)
Ft. Lauderdale, Hollywood, North)
Dade and Miami.)

DOCKET NO. 911034-TL

FILED: February 21, 1994

**SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S
MOTION FOR RECONSIDERATION OF
ORDER NO. PSC-94-0166-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 Reconsideration of Order No.
PSC-94-0166-CFO-TL, issued February 10, 1994 by the Prehearing
Officer in the above-referenced dockets, and states as grounds in
support thereof the following:

DOCUMENT NUMBER-DATE

01714 FEB 21 1994

FPSC-RECORDS/REPORTING

1. On February 10, 1994, the Prehearing Officer issued Order No. PSC-94-0166-CFO-TL, which denied Southern Bell's request for confidential classification for the exhibits to and portions of the direct testimony of R. Earl Poucher that was filed in this docket. This testimony quoted information derived from an ethics survey conducted for Southern Bell by an outside consultant. The exhibits contained specific quotes from Southern Bell employees regarding both ethics and out-of-service issues.

2. The Prehearing Officer's reasons for rejecting Southern Bell's request for confidentiality were set forth succinctly in the following two paragraphs of the subject Order:

Southern Bell contends that public disclosure of this information would have a "chilling effect" on employee communications with consultants conducting such surveys in the future, since employees will fear retaliation if their identities are disclosed. Such a result, Southern Bell contends, would interfere with the Company's efforts to police its operations. Southern Bell relies on our decision in Order No. PSC-93-1689-CFO-TL in this docket, wherein we held that public disclosure of the identities of callers to the Employee Reporting Line would interfere with the Company's ability to police itself through the ombudsman program.

Our decision in Order No. PSC-93-1689-CFO-TL is distinguishable from the circumstances under consideration here. In that instance, the circumstances indicated that employees disclosed their identities when calling the ethics hotline but were promised anonymity. Here, the circumstances indicate that the surveys were completed by Southern Bell employees anonymously. The fear that their identities might be disclosed despite assurances of secrecy is not the case under the facts presented here.

Order No. PSC-94-0166-CFO-TL at pp. 2-3. Thus, the subject Order is apparently premised upon the belief that confidentiality was granted in the earlier Order only because employees' identities would have been disclosed. The subject Order is further based on the conclusion that the instant Motion includes an argument that a "chilling effect" would occur because "employees will fear retaliation if their identities are disclosed," (Order at p. 2) but that this argument is misapplied because the information here at issue does not include the identities of employees.

3. Southern Bell files this Motion for Reconsideration because the above-noted analysis by the Prehearing Officer overlooks or fails to consider the real nature of the argument advanced by Southern Bell in the subject Motion and the specific support that Order No. PSC-93-1689-CFO-TL provides for this argument. Specifically, Southern Bell argued in this instance not for the protection of specific employee identities, but rather for the confidentiality of statements made by employees. Likewise, the Motion filed by Southern Bell on August 16, 1993, requested confidentiality both for employee identities and for substantive information. The Prehearing Officer expressly sustained the request for confidentiality in Order No. PSC-93-1689-CFO-TL for both employee identities and for other information. Therefore, Southern Bell premised the instant request on that prior ruling.

4. On August 16, 1993, Southern Bell filed a Motion requesting confidentiality for two types of information. First,

Southern Bell requested confidentiality for the names of employees who are alleged in certain depositions to have acted improperly. The basis for this request was that this was employee specific information protected by Section 364.183(f), Florida Statutes.

5. Southern Bell also requested confidentiality for information included in an exhibit to the deposition of George Nicholson "which relates to certain information that has been communicated to Southern Bell's corporate ombudsman by way of the employee reporting line." Motion of August 16, 1993 at p. 9. In this part of its Motion, Southern Bell argued not for confidentiality of the names of employees who made these communications, but for confidentiality of the substance of the communications. To this end, Southern Bell noted that "the [ombudsman] office specifically notifies callers to the ethics hotline that if they desire, their communications and their identities will be treated confidentially." Motion of August 16, 1993, at p. 9. (emphasis added) Southern Bell went on to note that "it is the function of the...[program]...to receive, investigate and remedy work place problems in a strictly confidential atmosphere." Id. at p. 10. Therefore, "if the program promises confidentiality, and later it is found that such confidentiality cannot exist because of compelled public disclosure, then employees are unlikely to trust the program and will ultimately abandon it." Id. at p. 10.

6. This request for confidentiality was sustained by the Prehearing Officer in Order No. PSC-93-1689-CFO-TL. In so doing, the Prehearing Officer first noted that "disclosure of the identity of...[certain Southern Bell employees]...would discourage direct employee communications to the Employee Reporting Line." Order No. PSC-93-1689-CFO-TL at p. 10. The Order then went on to expressly state that "[l]ikewise, public disclosure of the substance of the communication will discourage employees from communicating, either directly or indirectly with the ombudsman." Order at p. 10 (emphasis added).

7. Again, in the instant Motion, Southern Bell has requested confidentiality of statements from employees that have been communicated to the Company as part of surveys on ethics and service quality. In requesting this confidentiality, Southern Bell raised precisely the same grounds that were raised and sustained in the previous motion. Specifically, Southern Bell stated that this communication must remain confidential because "[a] Commission Order compelling disclosure of the information communicated in this study would invade the principle of confidentiality that was its cornerstone and which was absolutely necessary for its effectiveness. Wholesale compelled disclosure of this information would result in a 'chilling effect' on internal communications vital to the goals of continuous corporate improvement in the internal policing of Company's affairs." December 1, 1993 Motion, pp. 2-3. In advancing this argument, Southern Bell also stated specifically that "the

information sought to be protected herein is analogous to that protected in Order PSC-93-1689-CFO-TL issued on November 2, 1993." Id. at p. 3.

8. In rejecting Southern Bell's request for confidentiality for this information, the instant Order appears to be premised entirely upon the conclusion that the previous Order sustained confidentiality only for employee identities, and that since the subject request for confidentiality deals with confidential statements, this request is simply not supported by the previously ruling. It can be seen from the chronology set forth above, however, that the first Motion requested confidentiality for both employee identities and for the substance of the Communications. Order No. PSC-93-1689-CFO-TL held expressly that there would be a "chilling effect" if either the employees' identities or the substance of the communications were publicly disclosed.

9. Southern Bell, accordingly, premised the instant request for confidentiality of communications on the earlier Order's express grant of confidentiality for this type of information. Put simply, confidential communications concerning ethical issues were held previously to be confidential, and the instant request entails precisely the same sort of information. Given this, the Prehearing Officer erred by denying Southern Bell's request for confidentiality in the Order now under review.

WHEREFORE, Southern Bell requests the entry of an Order granting this Motion for full Commission review, setting aside Order No. PSC-94-0166-CFO-TL and ruling that Southern Bell is entitled to confidential classification for the information at issue.

Respectfully submitted this 21st day of February, 1994.

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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
furnished by United States Mail this *21st* day of *February*, 1994
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