

NANCY B. WHITE  
General Attorney

Southern Bell Telephone  
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150 South Monroe Street  
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Tallahassee, Florida 32301  
(404) 529-5387

FILED

July 7, 1995

Mrs. Blanca S. Bayo  
Director, Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399

RE: Docket No. 920040-71

Dear Mrs. Bayo:

Enclosed are an original and fifteen copies of Southern Bell Telephone and Telegraph Company's Motion for Protective Order. Please file these documents in the captioned docket.

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 on the parties shown on the attached Certificate of Service.

Sincerely,

*Nancy B. White*  
Nancy B. White *02*

Enclosures

*Notes*  
cc: All Parties of Record  
A. M. Lombardo  
R. G. Beatty  
R. D. Lackey

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DOCUMENT NUMBER-DATE

06460 JUL-7 95

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

FILE COPY

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 7, 1995

SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S  
MOTION FOR PROTECTIVE ORDER

BellSouth Telecommunications, Inc., d/b/a Southern Bell Telephone and Telegraph Company ("Southern Bell") pursuant to Rule 25-22.037 of the Rules of the Florida Public Service Commission ("Commission") and Rule 1.280(c) of the Florida Rules of Civil Procedure, moves the Prehearing Officer to issue a Protective Order preventing or limiting the scope of certain depositions scheduled by Locals 3121, 3122, 3107 Communication Workers of America, AFL-CIO ("CWA") for the reasons set forth below.

1. In connection with the hearing set in the above captioned matter, the CWA has scheduled the deposition of Mr. Joseph P. Lacher, President of Florida - Southern Bell, for July 19, 1995, in Coral Gables, Florida. Mr. Lacher is Southern Bell's chief operating officer for its operations in Florida. As such, his time is subject to many demands both from within and outside the Company. A review of the background of this case, the CWA's Prehearing Statement, and the prefiled testimony indicates that Mr. Lacher's deposition has been scheduled merely for purposes of harassment, and that the CWA intends to explore issues that are totally irrelevant to the subject of this docket.

2. The sole factual issue that exists with regard to this

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FPSC-RECORDS/REPORTING

matter is the appropriate disbursement of \$25 million in unspecified rate reductions scheduled for 1995, resulting from the Stipulation and Implementation Agreement ("Settlement") entered into by the parties in Docket No. 920260-TL. By Order No. PSC-94-1072-FOF-TL, dated February 11, 1994, the Commission approved the Settlement. This order is a final judgment, upon which all appeal time has run. Mr. Lacher was not involved in determining the specific rate designs to be proposed by Southern Bell. Given Mr. Lacher's lack of involvement in and knowledge of Southern Bell's ECS proposal, as evidenced by the attached affidavit, it would be onerous, burdensome, and totally inappropriate to subject him to deposition by the CWA. Courts in Florida have granted protective orders prohibiting the taking of depositions under similar circumstances. Champagne v. Southern Bell Telephone & Telegraph Co., Case No. 90-6603-CIV-Ungaro-Benages (S.D. Fla. 1993) (a copy is attached hereto).

3. While any deposition of Mr. Lacher would be unjustified, if a deposition is permitted, it should be limited solely to Mr. Lacher's knowledge of the factual issues related to the \$25 million disbursement. The CWA should not be allowed to use this deposition to go on a fishing expedition into matters which are totally irrelevant to this proceeding. As stated in Rule 1.280 of the Florida Rules of Civil Procedure, discovery is limited to matters which are relevant to the subject matter of the pending action.

4. In addition, the CWA has scheduled the deposition of an "individual most familiar with [sic] CWA proposal" from Southern Bell. Southern Bell would suggest that the witness sponsored by the CWA, Mr. Knowles, would presumably be the individual most familiar with the CWA's proposal. The sole familiarity that any Southern Bell employee has with respect to the CWA proposal would be derived from reading it. In short, Southern Bell has no witness who is an expert on the CWA's proposal and therefore, Southern Bell requests that the Prehearing Officer issue an order granting Southern Bell's Motion and order that the deposition of such an individual not be taken.

5. Finally, the CWA has scheduled the deposition of Mr. Lacher and an individual most familiar with the Southern Bell proposal for July 19, 1995 in Coral Gables, Florida. Southern Bell requests an order from the Prehearing Officer preventing such a deposition. If the CWA had been interested enough to attend the Issue Identification Conference held on June 6, 1995, the CWA would have been aware that the Staff tentatively scheduled depositions of all witnesses in this matter for July 13, 14, and 17, 1995 in Tallahassee, Florida. If appropriate, the CWA has an opportunity to question any Southern Bell witness at that time. To allow the CWA to schedule depositions on July 19, 1995, would be repetitious and a waste of resources.

Wherefore, Southern Bell requests that the Prehearing Officer issue an order granting Southern Bell's Motion for Protective Order for the reasons described herein and order that

Mr. Lacher's deposition be prevented or limited; that no deposition be held of Southern Bell as to an individual familiar with the CWA proposal; and that any deposition of Southern Bell's witnesses by the CWA be held in conjunction with the depositions previously scheduled by the Staff.

Therefore, Southern Bell requests that the Prehearing Officer issue an Order granting Southern Bell's Motion and order that Mr. Lacher's deposition not be taken at all, or, in the alternative, limit the scope of Mr. Lacher's deposition to the subject of the unallocated \$25 million revenue reductions scheduled for implementation in 1995.

Respectfully submitted this 7th day of July, 1995.

SOUTHERN BELL TELEPHONE  
AND TELEGRAPH COMPANY

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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 7th day of July, 1995 to:

Robin Norton  
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Nancy B. White  
02

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 90-5603-CIV-UNGARO-BENAGES

LEONARD CHAMPAGNE,

Plaintiff,

vs.

SOUTHERN BELL TELEPHONE  
AND TELEGRAPH COMPANY,

Defendant.

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ORDER

THIS CAUSE came before the Court on Frank Skinner's Emergency Motion for Protective Order filed on May 3, 1993. Upon review of this motion, plaintiff's response thereto, the Court file and applicable law, it is hereby

ORDERED AND ADJUDGED that this motion is GRANTED at this time and until plaintiff has deposed other employees of defendant, Southern Bell Telephone and Telegraph Company, with more knowledge of the facts relevant to this case. Thereafter, and if the testimony of other employees is unsatisfactory or would indicate that Frank Skinner has information relevant to issues in this case, plaintiff can once again re-notice the deposition of this former



officer of Southern Bell. See Salter v. The Upjohn Co., 593 F.2d 649 (5th Cir. 1979); Community Federal Savings & Loan Assn's v. FHLBB, 96 F.R.D. 619 (D.D.C. 1983).

DONE AND ORDERED in Chambers in Miami, Florida, this 18th day of May, 1993.

  
Ted E. Bandstra  
United States Magistrate Judge

Copies furnished to:

All counsel of record

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Comprehensive Review of )  
the Revenue Requirements and Rate )  
Stabilization Plan of Southern )  
Bell Telephone and Telegraph )  
Company )  
\_\_\_\_\_ )

Docket No. 920260-TL

STATE OF FLORIDA )  
 ) ss  
COUNTY OF DADE )

AFFIDAVIT OF JOSEPH P. LACHER

BEFORE ME, the undersigned authority, personally appeared Joseph P. Lacher, who stated that he is currently President of Southern Bell - Florida, and further states the following:

1.


While I have ultimate responsibility for approving all of Southern Bell's filings with the Florida Public Service Commission ("Commission"), and while I permitted the Expanded Calling Service ("ECS") concept to be considered generally, I had no involvement in developing the specifics of the ECS Plan that was filed with the Commission by Southern Bell on May 15, 1995.

2.

I had no involvement in designing the specific rate reductions that were proposed by Southern Bell in order to distribute the unspecified \$25 million for 1995.

FURTHER AFFIANT SAYETH NOT.

Dated this 7<sup>th</sup> day of July, 1995.

  
\_\_\_\_\_  
Joseph P. Lacher

Sworn to and subscribed  
before me this 7<sup>th</sup>  
day of July, 1995.

  
\_\_\_\_\_  
Notary Public

My Commission Expires:

