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October 16, 1995

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

RE: Docket No. 920260-TL

Dear Mrs. Bayo:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Request for Confidential Classification. Please file these documents in the above-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 to the parties shown on the attached Certificate of Service.

Sincerely,
BELLSOUTH TELECOMMUNICATIONS, INC.

Thomas B. Alexander (03)

Thomas B. Alexander

Enclosures

cc: All Parties of Record
R. G. Beatty
A. M. Lombardo
R. Douglas Lackey

RECORDED

J-D
DIVISION OF RECORDS AND REPORTING

DOCUMENT NUMBER-DATE

10208 OCT 16 95

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Comprehensive Review of) Docket No. 920260-TL
Revenue Requirements and Rate)
Stabilization Plan of Southern) Filed: October 16, 1995
Bell Telephone and Telegraph)
Company)

BELLSOUTH TELECOMMUNICATIONS, INC.'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION

COMES NOW BellSouth Telecommunications, Inc. ("BellSouth" or "Company"), and pursuant to Rule 25.22.006, Florida Administrative Code, files its Request for Confidential Classification for certain documents originally provided to the Commission for an in camera inspection in connection with Public Counsel's Thirty-sixth Request for Production and various discovery requests by the Commission Staff. The Commission is still in possession of these documents.

1. BellSouth is filing its Request for Confidential Classification for those certain documents referenced in the Company's Amended Notice of Intent to Request Confidential Classification filed on October 16, 1995. A more detailed explanation of the procedural history regarding these specific documents is set forth in the Company's Amended Notice of Intent. BellSouth is seeking Confidential Classification for the documents which are specifically described in Order No. PSC-94-1290-FOF-TL as follows:

- a. Notes made during preparation for administering discipline by Dave Mower.
- b. Network Operational Review re-audit - January 1993.
- c. Customer Adjustment to MOOSA re-audit - January 1993.

DOCUMENT NUMBER-DATE

10208 OCT 15 95

FPSC-RECORDS/REPORTING

d. Notes made concerning discipline appeals of employees by Charles Cuthbertson.

2. BellSouth has appended to this Request for Confidential Classification as Attachment "A," a listing showing the location in the documents of the information designated by BellSouth as confidential as well as the required correlation with the specific justification for confidential classification.

3. Appended hereto in a package designated as Attachment "B" are two edited copies of the documents with the confidential information deleted.

4. Appended as Attachment "C" is a sealed package containing copies of the documents with the material which is confidential and proprietary highlighted. Copies of Attachments "B" and "C" are not being served on the other parties in this proceeding.

5. With respect to the documents comprising the Network Operational Review re-audit - January 1993 (listed as "b" above) and the Customer Adjustment to MOOSA re-audit - January 1993 (listed as "c" above), these documents consist of Company-specific internal audits. Section 364.183, Florida Statutes, expressly includes internal audits as an example of the type of information that should be accorded confidential treatment. "The term [proprietary confidential business information] includes, but is not limited to: ... (b) Internal auditing controls and reports of internal auditors", Section 364.183 (b), Florida Statutes. Clearly, the above-referenced documents satisfy the statutory standard for protection. Internal audit reports have consistently

been afforded confidential classification by this Commission. Consequently, these documents are entitled to confidential classification in their entirety.

6. With respect to the documents comprising the notes made during preparation for administering discipline by Dave Mower (listed as "a" above) and the notes made concerning discipline appeals of employees by Charles Cuthbertson (listed as "d" above), the Company asserts that these documents must be classified as confidential, either in their entirety or with respect to certain specified sections, for a number of reasons.

First, BellSouth maintains that these documents should be afforded treatment as confidential proprietary business information in their entirety, since they constitute a part of an internal investigation which constituted a critical, corrective self-analysis of the Company's business operations. These documents were prepared by Mr. Mower and Mr. Cuthbertson in direct connection with the same Company-specific internal investigation conducted by the Company's Legal Department as were the two re-audits previously discussed. These documents, as an integral part of the entire internal investigation/audit conducted by the Company, contain critical, corrective self-analysis related to the Company's business operations, which, if disclosed to the public, would have a chilling effect on similar critical self-analysis in the future. Clearly, the disclosure of such critical self-analysis would hamper the gathering of similar information in the future since those who supply the Company's investigators with this type information would

be less likely to come forward with frank, candid, critical, confidential information. Likewise the investigators could be discouraged from investigating as thoroughly and reporting as frankly. The information contained in these two documents, though not specifically prepared by the internal auditing department of the Company, is still the product of the same investigation/audit as was participated in by internal auditing employees. Therefore, these documents are part and parcel of the entire internal investigation/audit and should be protected as are internal audits under Section 364.183(b). In point of fact, these documents may be observed to comprise the final steps of the audit/investigation since they involve the disciplinary activity of the Company resulting from the information contained in the re-audits. Succinctly stated, the Company learned of a problem within its business operations, it investigated the problem (re-audits), and it took corrective action (disciplinary worknotes). Clearly, these documents are similar and interrelated to one another, and thus, all the documents are entitled to confidential treatment.

As the Commission is aware, the Court of Appeals of Florida, First District, was presented with the question of whether an exception exists for "critical self-analyses" in the case of Southern Bell Telephone and Telegraph Company v. Thomas M. Beard, et al., 597 So.2d 873 (1992 Fla. App.); however, the facts in this docket differ significantly from the facts before the Court in that case. Southern Bell v. Beard involved a group of reports known as the "Benchmark Reports" that were prepared by an outside consultant

in order to provide advice regarding the proposed combination of certain parts of the Company's business operations. In the instant proceeding, the "worknotes" are clearly distinguishable from the "Benchmark Reports" for the following reasons: The "worknotes" documents were: (1) prepared by Company human resource employees; (2) the documents are true internal reports; and (3) the documents were prepared as a part of the entire internal investigation/audit of the Company conducted by its Legal Department. For the reasons set forth above, these documents are indeed similar to "internal reports of auditors," and thus, are entitled to confidential classification in their entirety pursuant to Section 364.183(b), Florida Statutes.

Second, these documents contain specific information concerning Company employee-related disciplinary activities and should be treated as confidential proprietary business information in their entirety for this reason. These documents contain specific references to the individuals involved in disciplinary activities and other matters pertaining to such disciplinary activity, all of which documentation was created for internal Company purposes and was not intended for public disclosure. Clearly, the information in such documents is unrelated to any normal compensation, duties, qualifications, or responsibilities of such employees. Consequently, pursuant to Section 364.183(f), Florida Statutes, these documents are exempt in their entirety from the inspection and review provisions of Section 119.07, Florida Statutes.

Finally, and in the alternative, since these documents contain references to specific individual employees regarding disciplinary activity of the Company, the names of the individual employees should be redacted, at a minimum, in the event the Commission disagrees that the entire documents should be afforded confidential treatment. Protecting the names of the individual employees listed among the information in these documents is in the public interest since it will tend to promote the candid, forthright, voluntary disclosure of the type information that is contained in these documents in the future. Clearly, the specific identities of the Company employees listed in these documents is not necessary for meaningful public inspection of these documents. The Company asserts that, at a minimum, this information is exempt from disclosure under Section 364.183 (f), Florida Statutes, since the information consists of "[e]mployee personnel information unrelated to compensation, duties, qualifications, or responsibilities." Section 364.183(f), Florida Statutes (emphasis added). Because the Company has requested that these documents be afforded confidential treatment in their entirety a separate redacted version deleting the names of employees has not been furnished. However, in the event that the Commission determines that only the names of individual employees will be protected, as opposed to the entire documents and subject to such other legal remedies as the Company may pursue, the Company will furnish redacted copies (i.e., employee names deleted) of these documents to the Commission within a reasonable period following the Commission's final order on the

Company's Request for Confidential Classification in this proceeding.

7. BellSouth has treated and intends to continue to treat the material for which confidential classification is sought as private, and this information has not generally been publicly disclosed.

WHEREFORE, based on the foregoing, BellSouth moves the Prehearing Officer to enter an order declaring the information described above and contained in the indicated portions of the attachments to be confidential proprietary business information, and thus, not subject to public disclosure.

Respectfully submitted this 16th day of October, 1995.

BellSouth Telecommunications, Inc.

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**FPSC DOCKETS 920260-TL & 910163-TL
SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY
REQUEST FOR CONFIDENTIAL CLASSIFICATION
PUBLIC COUNSEL'S 36TH REQUEST FOR PRODUCTION OF DOCUMENTS
AND VARIOUS STAFF REQUESTS FOR PRODUCTION
(FPSC ORDER PSC-94-1290-FOF-TL)**

JUSTIFICATION FOR CONFIDENTIALITY REQUEST

1. This information contains critical, corrective self-analysis of the Company's business operations, which, if disclosed to the public, would have a chilling effect on similar critical self-analysis in the future. This information was developed as an integral part of the entire internal investigation/audit conducted by the Company. Southern Bell considers this information proprietary and confidential business information. As such, this information is confidential business information pursuant to Section 364.183, Florida Statutes, and is exempt from the requirement of public disclosure of Section 119.07, Florida Statutes.
2. This information is employee personnel information unrelated to compensation, duties, qualifications and responsibilities. As such, this information is confidential business information pursuant to Section 364.183, Florida Statutes, and is exempt from the requirement of public disclosure of Section 119.07, Florida Statutes.
3. These are Internal Audits conducted by Southern Bell's Internal Auditing Department. Southern Bell considers this information proprietary and confidential business information. As such, this information is confidential business information pursuant to Section 364.183, Florida Statutes, and is exempt from the requirement of public disclosure of Section 119.07, Florida Statutes.

The following information identified by page and line numbers is considered confidential and proprietary:

<u>DOCUMENT/ PAGES</u>	<u>LINE/ COLUMN NO.</u>	<u>REASON</u>
Mower's Notes Pages F03A22Z00051 thru F03A22Z00071	ALL LINES	1, 2
Internal Audit F20-16-06-R-S Pages 1-4	ALL LINES	3
Internal Audit F20-55-02-R-SAF Pages 1-6	ALL LINES	3
Cuthbertson's Notes Pages C1 thru C7	ALL LINES	1, 2

CERTIFICATE OF SERVICE
Docket No. 920260-TL

I HEREBY CERTIFY that a copy of the foregoing has been furnished by United States Mail this 16th day of October, 1995 to:

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