

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into Southern) DOCKET NO. 900960-TL
 Bell Telephone and Telegraph Company's) ORDER NO. 24778
 non-contact sales practices.) ISSUED: 7/9/91
)

ORDER GRANTING SOUTHERN BELL TELEPHONE AND TELEGRAPH
 COMPANY'S AMENDED MOTION FOR PERMANENT PROTECTIVE ORDER
 AND CONFIDENTIAL CLASSIFICATION FOR
 DOCUMENT NO. 2021-91

On January 11, 1991, Southern Bell Telephone and Telegraph Company (Southern Bell) filed a Response and Objections to Public Counsel's Request for Production of Documents and Motion for Temporary Protective Order requesting temporary confidentiality for specific customer and employee information. By letter dated February 5, 1991, Public Counsel requested Southern Bell to provide justification for confidentiality as it related to four specific documents. On February 28, Southern Bell filed a Motion for Permanent Protective Order which requested confidential classification for the employee specific information contained in these four documents, identified for administrative purposes as Document No. 2021-91. Specifically, Document No. 2021-91 consists of the following four documents:

1. A memorandum dated November 2, 1990 and the accompanying Southern Bell security investigation in the West Palm division.
2. A memorandum dated October 3, 1990 along with an accompanying investigative report regarding two of Southern Bell's employees in Orlando.
3. Letter dated November 30, 1990 along with an accompanying additional investigation concerning the North Florida Network Sales Referral Program.
4. Letter dated November 29, 1990 and the accompanying investigation by security in the South Florida area.

While Southern Bell's Motion for Permanent Protective Order was still pending, Southern Bell filed, on May 6, an amendment withdrawing the Motion for Temporary Protective Order insofar as it relates to employee specific information other than employee social security numbers. Thus, by incorporation, Southern Bell's Motion for Permanent Protective Order was amended. Subsequently, on June 21, 1991, Southern Bell filed a Motion to Supplement and Supplemental Motion for Permanent Protective Order in reference to its February 28, 1991, Motion for Permanent Protective Order. This

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supplemental motion explicated the Company's request for confidential classification for the customer specific information contained in Document No. 2021-91.

As amended, the Company's request would only protect the social security numbers of the employees contained in these four specific documents, as well as the customer specific information contained at:

Page 3, Lines 33,37, and 38 of Document dated October 3, 1990;
Page 4, Lines 32,33,36, and 41 of Document dated October 3, 1990;
Page 5, Line 4 of Document dated October 3, 1990; and
Page 74, Lines 19-21,23,28,31 of Document dated November 29, 1990.

Florida law provides, in Section 119.07(1), Florida Statutes, that documents submitted to governmental agencies shall be public records. The only exceptions to this law are specific statutory exemptions, and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. This law derives from the concept that government should operate in the "sunshine." It is our view that parties must meet a very high burden when requesting a protective order or specified confidential classification of documents that are submitted during a proceeding before this Commission. In the instant matter, the value that all parties would receive by examining and utilizing the information contained in these documents in a public forum must be weighed against the legitimate concerns of Southern Bell regarding disclosure of business information which it considers proprietary.

Pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Southern Bell has the burden to show that the material submitted is qualified for confidential classification. Rule 25-22.006, Florida Administrative Code, provides that Southern Bell may fulfill its burden by demonstrating that the information falls into one of the statutory examples set out in Section 364.183, Florida Statutes, or by demonstrating that the information is proprietary confidential information the disclosure of which will cause Southern Bell or its ratepayers harm.

In support of its motion for a protective order and, by implication its request for confidential classification of the social security numbers of its employees, Southern Bell asserts that this information is unrelated to employee compensation, duties, qualifications and responsibilities. One of the specific

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statutory categories provided in Section 364.183, Florida Statutes, provides that employee information which is unrelated to employee compensation, duties, qualification and responsibilities is considered proprietary confidential information. Southern Bell further asserts that if such information is made publicly available, it could be used in a manner adverse to the interests of the various employees involved.


In support of its supplemental motion which requests confidential classification of the customer specific information contained in Document No. 2021-91, Southern Bell asserts that Section 119.07(3)(w), Florida Statutes, exempts from the Public Records Act all records supplied by a telecommunications company to a government agency which contain the name, address and telephone number of the subscribers.

Upon review of the Company's request and the information, we find that Southern Bell has demonstrated that the social security numbers of the various employees and the customer specific information contained in Document No. 2021-91 as set out in this order are qualified for confidential classification pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. Accordingly, these portions of those documents shall be exempt from the requirements of Section 119.07(1), Florida Statutes. Therefore, Southern Bell's amended motion for a permanent protective order classifying the employee social security numbers and customer specific information contained in the four documents identified as Document No. 2021-91 as confidential is granted.

Based on the foregoing, it is, therefore.

ORDERED by Chairman Thomas M. Beard, as Prehearing Officer, that Southern Bell Telephone and Telegraph Company's Amended Motion for Permanent Protective Order as supplemented is hereby granted.

By ORDER of Chairman Thomas M. Beard, as Prehearing Officer,
 this 9th day of JULY, 1991.


 THOMAS M. BEARD, Chairman
 and Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, 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 Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, 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 sewer utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. 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 Rule 9.100, Florida Rules of Appellate Procedure.