

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 910163-TL

FILED: July 21, 1992

920260

IN RE: Petition on behalf of CITIZENS )  
OF THE STATE OF FLORIDA to initiate )  
investigation into integrity of SOUTHERN )  
BELL TELEPHONE & TELEGRAPH COMPANY'S )  
repair service activities and reports. )

DEPOSITION OF: JOHN WILLIAM FINNEGAN

TAKEN AT THE INSTANCE OF: Office of Public Counsel

PLACE: Southern Bell Offices  
903 West University Avenue  
Gainesville, Florida 32601

TIME: Commenced at 8:00 a.m.  
Concluded at 8:25 a.m.

DATE: Thursday, July 30, 1992

REPORTED BY: Marie C. Gentry  
Court Reporter

- - -

COPY

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WITNESS

JOHN WILLIAM FINNEGAN	
Examination by Mr. Beck	6
Examination by Mr. Hatch	20

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S T I P U L A T I O N

IT IS STIPULATED that this deposition was taken pursuant to notice in accordance with the applicable Florida Rules of Civil Procedure; that objections, except as to the form of the question, are reserved until hearing in this cause; and that reading and signing was not waived.

IT IS ALSO STIPULATED that any off-the-record conversations are with the consent of the deponent.

1 JOHN WILLIAM FINNEGAN,

2 appeared as a witness and, after being duly sworn by the  
3 court reporter, testified as follows:

4 - - -

5 MR. LACKEY: Mr. Finnegan, my name is Doug Lackey  
6 and I represent BellSouth Telecommunications, doing  
7 business as Southern Bell, in these depositions.

8 As a preliminary matter, there is a couple of  
9 things we need to discuss.

10 First, this lady, a stenographer, is taking down  
11 everything that's being said. She's going to take down  
12 the questions that Mr. Hatch and Mr. Beck may ask you,  
13 she's going to write down your answers, she's going to  
14 write down what I say.

15 While it's not certain that -- it may well be that  
16 what she's doing will be reduced to writing and at that  
17 time you, as the person giving the deposition, have the  
18 right to read the deposition and make any corrections  
19 of any errors she may make and to sign the deposition  
20 before it can be used. Typically, the folks who have  
21 been giving depositions this week have reserved the  
22 right to do that. You can waive that, but normally in  
23 this series of depositions the people have been  
24 reserving that right and I assume that you would like  
25 to do that as well.

1 THE WITNESS: Correct.

2 MR. LACKEY: Now, in addition to that, I have an  
3 instruction that I need to give you and this is the  
4 first time I will have given it, obviously, here in  
5 Gainesville. When I give it to you, if you don't  
6 understand it, if it's not clear or if you want me to  
7 explain it in any more detail, I'll be happy to do that.  
8 Okay?

9 This is the instruction: During this deposition  
10 Mr. Beck and Mr. Hatch may ask you questions which would  
11 call for you to divulge information that resulted from  
12 an investigation which has been done by Southern Bell  
13 at the direction of the Legal Department. If he asks  
14 you such a question, I'm going to object on the grounds  
15 that the question calls for privileged information. I'm  
16 going to tell you a little bit more about this  
17 investigation in just a minute.

18 If such a question is asked and I object to it,  
19 as I said, I'm going to instruct you not to answer.  
20 However, if you have personal information that you have  
21 obtained through your normal work or through your normal  
22 life, that is, not through the investigation process  
23 itself, then you need to tell them the answer as fully  
24 and completely as possible.

25 There may be questions that they ask you where I

1 don't object, I won't say anything, and you realize that  
2 if you answer that question you are going to have to  
3 divulge to them information that you learned through the  
4 investigation I referred to a minute ago. If that  
5 happens, if you would simply stop and turn to me and say,  
6 "I have a problem with answering that question," then we  
7 can pick it up and I'll carry it from there.

8 Now, one thing that we need to get straight is  
9 there have been at least two investigations here in  
10 Gainesville involving repairs. There was one that was  
11 conducted in late 1991, November, December '91, January  
12 of '92, solely by the Security Department. There was a  
13 second one --

14 MR. BECK: I think it was late 1990 and early '91.

15 MR. LACKEY: I'm sorry. I'm a year off. It was  
16 November and December of 1990 and January of '91, I was  
17 a year off, conducted solely by the Security Department.

18 There was a second one that was conducted after  
19 that and I believe you may have been interviewed during  
20 that process where there was actually a company attorney  
21 involved in the investigation.

22 THE WITNESS: Right.

23 MR. LACKEY: And those are the two I'm trying to  
24 distinguish.

25 The second one, where the company attorney was

1 involved, is the investigation that's privileged and  
2 which I have instructed you not to address.

3 THE WITNESS: Okay. I've been interviewed twice,  
4 once out at a motel and, when that was, I don't know.  
5 There was an attorney, a lady attorney.

6 MR. LACKEY: You may have been involved in two  
7 interviews. If you were involved in an interview with  
8 an attorney, that is a part of the privileged  
9 investigation that I am speaking of. You may not have  
10 had anything at all to do with the first investigation.

11 THE WITNESS: I didn't even know about that one.

12 MR. LACKEY: If you only know about the one,  
13 that's the one I have reference to.

14 THE WITNESS: Right.

15 MR. LACKEY: Now, is my instruction - I know it was  
16 lengthy - clear for you?

17 THE WITNESS: Let's go.

18 MR. BECK: Mr. Finnegan, let me just continue a  
19 little bit with what Mr. Lackey said.

20 I think what his instruction is to you is that if  
21 you learned something from the people conducting those  
22 interviews, he doesn't want you to disclose what you  
23 learned from them, or if I should ask you questions  
24 that happen to be the same or similar and you have  
25 personal knowledge about them, you still have to answer



1 those questions.

2 THE WITNESS: Right.

3 MR. BECK: You understand that?

4 THE WITNESS: (Nods head.)

5 MR. BECK: Okay.

6 - - -

7 EXAMINATION

8 BY MR. BECK:

9 Q My name is Charlie Beck. I'm with the Office of  
10 Public Counsel and I will be starting with the questions.  
11 Others may have some after I'm through.

12 Would you please state your full name?

13 A John William Finnegan.

14 Q Are you employed by Southern Bell?

15 A Yes, sir.

16 Q What position do you hold with the company?

17 A I'm an associate manager, DESS, and that stands for  
18 Digital Electronics Support Specialist.

19 Q Would you briefly describe what that entails?

20 A I head up the technical support for the North  
21 Central Florida operations turf.

22 Q Is that just with switching or another --

23 A No. It involves outside forces, switching, data  
24 communications, whatever problems the rest of the world can't  
25 solve, customer problems, they refer to us. And I have two

1 first level supervisors that report to me and we handle  
2 technical support for the whole turf.

3 Q How long have you held that position?

4 A Since March 1st of 1991.

5 Q What job did you hold before that?

6 A I was a special services installation and  
7 maintenance supervisor.

8 Q Was that here in Gainesville?

9 A Yes, sir.

10 Q How long did you hold that position?

11 A I'm bad on time. About a year and a half, I  
12 believe.

13 Q Okay. And how about before that what job did you  
14 have?

15 A I worked in the maintenance center.

16 Q What job did you have there?

17 A I don't remember what my title was there. I  
18 handled mostly translations, special services.

19 Q What do you mean by translations?

20 A People that they have no dial tone or their  
21 features wouldn't work and we could go in and look at the  
22 translations. I would assist the people on the floor on how  
23 to solve the customer's problems.

24 Q And do you recall how long you held that job?

25 A All the time I've been in the maintenance center.

1 Q Which is about how long?

2 A I came to Gainesville in March of 1985.

3

4

5 A Yes, sir.

6 Q Can you tell me about when that was?

7

8 Q Who was present at the meeting?

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10 Q Was anybody else at the meeting?

11 A No, sir.

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13 A No, sir.

14 Q Do you recall what he said?

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25 Q What happened at that meeting? Was it with

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12 Q And did he give you the specifics that you asked?

13 A Nothing.

14 Q Did he tell you why he would not?

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17 Q What happened after that?

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A No, I don't.

5

Wait a minute. 5/18/92.

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Q Do you have any knowledge of anyone ever backing up

11

time on repair reports?

12

A No, sir.

13

Q Have you heard that discussed?

14

A No, I haven't.

15

Q There's been no talk in Gainesville at all about a

16

problem with backing up times?

17

A (Shakes head.)

18

MR. LACKEY: In order for this lady to take down

19

what you're saying, you've got to tell him yes or no.

20

She can't pick up nods.

21

A No.

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MR. LACKEY: And the other thing you need to do is

23

you need to let him finish his question before you start

24

answering.

25

THE WITNESS: All right.

1 BY MR. BECK:

2 Q Have you not discussed the investigation with other  
3 people here that you work with?

4 A Yes.

5 Q And have they not told you that one of the things  
6 involved is backing up times on out-of-service reports?

7 A They asked me if I had backed up times and I told  
8 them no, I hadn't, when I had my other interviews.

9 MR. LACKEY: Again, what transpired in those  
10 interviews is privileged information and I don't want  
11 you to discuss it with Mr. Beck at this point.

12 THE WITNESS: Okay.

13 BY MR. BECK:

14 Q Right now I'm asking you what you discussed with  
15 other people, not the interviewers.

16 A Nothing.

17 Q Did you ever talk with Gary Swilley about any of  
18 this?

19 A No, sir.

20 Q Who is your immediate supervisor or manager above  
21 you?

22 A Rudy Christian.

23 Q And how about beforehand?

24 A Ted Kellermann.

25 Q Did you discuss with either of them how you felt

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A Right.

Q Have you spoken with anybody else?

A No, I haven't.

Q Are you familiar with certain exclude codes that take out-of-service reports out of the requirements of the Public Service Commission rule?

A No, I'm not.

Q Are you familiar generally with the Commission rule?

A No, I'm not.

Q Let me describe it and see if it rings any bells with you.

There's a Commission rule that requires that 95 percent of all out-of-service reports be repaired within 24 hours. Are you familiar with that rule?

A I didn't know what the percentage was, but I know that there's some PSC rule.

Q Okay. Do you know that there are certain types of out-of-service reports that are excluded from the operation of that rule?

A No, I'm not.

Q Would you know specifically whether, for example, lightning would be -- if an exclude code for lightning is

1 used on an out-of-service report that that takes it out of  
2 the rule requirements?

3 A I wasn't aware of that.

4 Q Have you ever told any MA to use the lightning  
5 exclude code in instances where it didn't apply?

6 A No.

7 Q Have you ever discussed the lightning exclude code  
8 with any maintenance administrators?

9 A No.

10 Q Are you familiar with any other exclusion codes?

11 A No, sir.

12 Q Do field technicians report to you?

13 A No.

14 Q What type of -- do maintenance administrators  
15 report to you?

16 A Now?

17 Q Or previously.

18 A There was MAs, but I don't remember who reported to  
19 me it's been so long ago.

20 Q In which position did MAs report to you? In which  
21 position that you held did MAs report to you?

22 A Well, everybody has so many, you have to split up  
23 the -- so many people report to responsibility code and I  
24 think I had probably a half a dozen. I don't even remember  
25 who they were.



1 MR. LACKEY: Excuse me, he must have misunderstood  
2 the question. He was asking you in which one of your  
3 jobs that you described earlier --

4 THE WITNESS: Oh, I see.

5 MR. LACKEY: -- did you have MAs reporting to you.  
6 I think that's what he was asking you.

7 A When I was in the maintenance center.

8 Q And while you were in the maintenance center did  
9 you never have occasion to discuss the operation of exclude  
10 codes with the people who worked for you?

11 A No, I didn't, because I didn't work in that part of  
12 the maintenance center. Like I said, I was in translations,  
13 I handled the special services, customers would call in and  
14 they couldn't -- I would assist MAs in solving unique  
15 problems.

16 Q Are you aware of or have you ever heard of a  
17 practice that would require maintenance administrators to  
18 contact a manager to get close-out codes?

19 A No, sir.

20 Q Do you know or have you heard of the use of  
21 no-access codes to stop the clock on out-of-service reports?

22 A No, sir.

23 Q Do you know of or have you heard of a practice of  
24 excluding out-of-service reports that were about to miss the  
25 commitment date and then reopening them as employee-generated

1 reports?

2 A No, sir.

3 Q Do you know of have you heard of statusing Test OK  
4 repairs as out-of-service repairs?

5 A No.

6 Q Are you familiar with the CON Code?

7 A No, I'm not.

8 Q Could you tell me what actions are done on the  
9 repair report when a customer states that they cannot be  
10 present at the offered repair time and ask that it be done at  
11 a later date?

12 A I have no idea.

13 Q Do you have any knowledge or have you heard of the  
14 statusing of affecting service reports as out-of-service  
15 reports?

16 A No, sir.

17 Q Do you know of or have you heard of the use of  
18 fictitious employee codes on repair reports?

19 A No, sir.

20 Q Do you know of or have you heard of any means  
21 whatsoever of building up the out-of-service base?

22 A No, sir.

23 Q Do you know of or have you heard of any other means  
24 that might exclude out-of-service reports from being counted  
25 toward the PSC rule?

1 A No, sir.

2 Q Do you know of or have you heard of falsifying  
3 customer repair records in any way, shape or manner?

4 A No, sir.

5 MR. BECK: Mr. Finnegan, that's all I have.

6 Thank you. There may be others.

7 EXAMINATION

8 BY MR. HATCH:

9 Q Mr. Finnegan, my name is Tracy Hatch. I'm with the  
10 Public Service Commission, which is different from the Office  
11 of Public Counsel.

12 In talking with Mr. Beck earlier, you had mentioned  
13 you solved unique customer problems when you were in the  
14 maintenance center. What were those translation services?

15 A When they couldn't send -- say that a customer had  
16 prestige service that wasn't working properly and there's a  
17 bunch of different things that happen with that. Well, we  
18 have access to the inside -- you can look at the switch and  
19 look at different commands and see if it's marked or not, if  
20 it's really in there, and the MAs really weren't that  
21 familiar with it. I had had some switching background years  
22 ago.

23 Q In dealing with those kinds of problems, did you  
24 deal with customer trouble reports directly?

25 A No, sir. The MA would have something, and they'd

1 say, "Hey, Jack," you know, and I'd go over, "What you have?"  
2 "I've been trying to get prestige to work and I can't get it  
3 to go, will you help me?" And I'd say, "Well, look at this,  
4 look at that."

5 MR. HATCH; That's all I've got.

6 MR. LACKEY: Thank you, Mr. Finnegan.

7 THE WITNESS: That's it?

8 MR. LACKEY: That's it.

9 (Witness excused)

10 (Whereupon, at 8:25 o'clock a.m., the deposition  
11 was concluded.)

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AFFIDAVIT OF DEPONENT

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This is to certify that I, JOHN WILLIAM FINNEGAN, have read the foregoing transcription of my testimony, Page 6 through 21, given on July 30, 1992, in Docket No. 910163-TL, and find the same to be true and correct, with the exceptions, and/or corrections, if any, as shown on the errata sheet attached hereto.

\_\_\_\_\_

JOHN WILLIAM FINNEGAN

Sworn to and subscribed before me this

\_\_\_\_\_ day of \_\_\_\_\_, 19\_\_

\_\_\_\_\_  
NOTARY PUBLIC

State of \_\_\_\_\_

My Commission Expires:

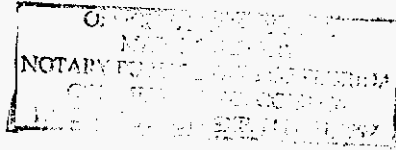
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FLORIDA )  
          :  
COUNTY OF CLAY )

I, the undersigned authority, certify that JOHN WILLIAM FINNEGAN personally appeared before me and was duly sworn.

WITNESS my hand and official seal this 1<sup>ST</sup> day of October, 1993.

Marie C. Gentry  
MARIE C. GENTRY  
Notary Public, State of Florida  
My Commission No. CC251746  
Expires: January 21, 1997



1 STATE OF FLORIDA)  
2 COUNTY OF CLAY )

CERTIFICATE OF REPORTER

3  
4 I, Marie C. Gentry, Court Reporter,  
5 DO HEREBY CERTIFY that I was authorized to and did  
6 stenographically report the foregoing deposition of JOHN  
7 WILLIAM FINNEGAN;

8 I FURTHER CERTIFY that this transcript, consisting  
9 of 24 pages, constitute a true record of the testimony given  
10 by the witness.

11 I FURTHER CERTIFY that I am not a relative,  
12 employee, attorney or counsel of any of the parties, nor am I  
13 a relative or employee of any of the parties' attorney or  
14 counsel connected with the action, nor am I financially  
15 interested in the action.

16 DATED this 1<sup>ST</sup> day of October, 1993.

17 Marie C. Gentry  
18 MARIE C. GENTRY  
19 Court Reporter  
20 Telephone No. (904) 264-2943

21 STATE OF FLORIDA)  
22 COUNTY OF CLAY )

23 The foregoing certificate was acknowledged before  
24 me this 1<sup>st</sup> day of October, 1993, by  
25 Marie C. Gentry, who is personally known to me.

Patricia H. Vierengel  
Notary Public - State of Florida

PATRICIA H. VIERENGE  
NOTARY PUBLIC STATE OF FLORIDA  
MY COMMISSION EXPIRES 6/21/97  
COMM. # CC 296027

