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March 25, 1993

Mr. Steve C. Tribble  
Director, Division of Records and Reporting  
Florida Public Service Commission  
101 East Gaines Street  
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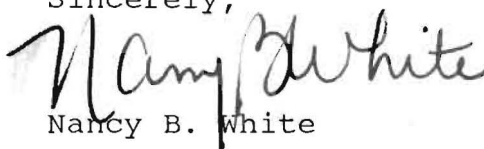
RE: Docket Nos. 920260-TL, 900960-TL, 910163-TL, 910727-TL

Dear Mr. Tribble:

Enclosed are an original and fifteen copies of Southern Bell Telephone and Telegraph Company's Request for Confidential Classification and Motion for Protective Order. Please file this document in the above-captioned dockets.

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

Enclosures

cc: All Parties of Record  
A. M. Lombardo  
H. R. Anthony  
R. D. Lackey

RECEIVED & FILED

28  
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DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

**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 25th day of March, 1993 to:

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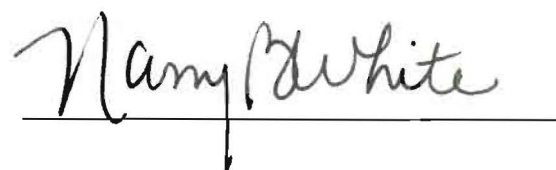
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Nancy White

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition on behalf of Citizens of the State of Florida to initiate investigation into integrity of Southern Bell Telephone and Telegraph Company's repair service activities and reports.	)	Docket No. 910163-TL
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In re: Comprehensive Review of the Revenue Requirements and Rate Stabilization Plan of Southern Bell Telephone & Telegraph Company	)	Docket No. 920260-TL
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In re: Investigation into Southern Bell Telephone and Telegraph Company's Non-Contact Sales Practices	)	Docket No. 900960-TL
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In re: Investigation into Southern Bell Telephone and Telegraph Company's Compliance with Rule 25-4.110(2) (Rebates)	)	Docket No. 910727-TL Filed: March 25, 1993

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

COMES NOW BellSouth Telecommunications, Inc., d/b/a Southern Bell Telephone and Telegraph Company ("Southern Bell" or "Company"), pursuant to Rule 25-22.006, Florida Administrative Code, and files its Request for Confidential Classification and Motion for Protective Order, and states as grounds in support thereof the following:

1. On June 17, 1992, Public Counsel took the panel deposition of C. L. Cuthbertson, Jr. and C. J. Sanders. At that time, Public Counsel requested the production of certain documents, which by agreement of the parties, would be considered to be Late Filed Exhibits. On August 7, 1992, Southern Bell filed its response to this request for late filed exhibits along

DOCUMENT NUMBER-DATE  
03337 MAR 25 83  
FPSC-RECORDS/REPORTING

with a Motion for Temporary Protective Order as to the confidential information contained therein. On August 18, 1992, Southern Bell filed its Supplemental Response to Request of Public Counsel for late filed exhibits.

2. On or about February 22, 1993 the Florida Public Service Commission ("FPSC") Staff requested that Southern Bell provide to it copies of these late filed exhibits as well. Accordingly, Southern Bell provided copies of these late filed exhibits to Staff on March 4, 1993, and on this same date filed its Notice of Intent to Seek Confidential Classification.

3. Southern Bell has filed as Attachment "A" a listing of specific portions of the above-referenced late filed exhibits that contain proprietary confidential information, all of which are confidential for the reasons set forth below. Southern Bell has also filed two redacted copies of the depositions as Attachment "B." Finally, Southern Bell has filed a highlighted version of the documents in a sealed container, which is marked as Attachment "C."

4. The documents provided in response to request for Late Filed Exhibits Nos. 3, 7, 8, and 9 constitute confidential information that is entitled to exemption from the disclosure requirements of Section 119.07, Florida Statutes. Specifically, these documents include employee specific information including, employees' names, and employee personnel information that is not related to compensation, duties, qualifications or responsibilities. Accordingly, under the provisions of Section

364.183(f), Florida Statutes, This information is entitled to exemption from public disclosure.

5. Southern Bell previously filed a Request for Confidential Classification and Motion for Permanent Protective Order with regard to the documents contained in Late-Filed Exhibit Nos. 8 and 9. This request was filed on June 26, 1992 in connection with the Sixteenth Request for Production of Documents filed by Staff.

6. With regard to Late-Filed Exhibit Nos. 3 and 7, Southern Bell seeks confidential treatment of the specific identities of the employees disciplined. This information is clearly confidential and proprietary under Florida Statutes, § 364.183(f), which provides that "proprietary confidential business information" includes "employee personnel information unrelated to compensation, duties, qualifications, or responsibilities."

7. The four areas of employee personnel information that are not, per se, confidential pursuant to § 364.183(f), Florida Statutes, are compensation, duties, qualifications, and responsibilities of an employee. A common sense reading of this list, as well as a review of the definitions of these items as contained in Webster's Seventh New Collegiate Dictionary demonstrate that the names of employees in connection with discipline do not fit any of the exceptions and thus are, per se, confidential under § 364.183(f), Florida Statutes.

8. A review of these terms, in the context of

§ 364.183(f), Florida Statutes, reveals their meaning.

"Compensation" is the amount of money or other value that an employee is paid to perform his or her job duties. "Duties" are the particular acts an employee is expected to perform as a part of his or her job. "Qualifications" are the skills, knowledge, and abilities needed to perform a particular job. Finally, "responsibilities" are those things that an employee is obliged to do as part of his or her job. These meanings are confirmed by the dictionary definition of these words. Webster's definitions of these terms are as follow:

- A. Compensation - payment, wages.
- B. Duty - the action required by one's position or occupation.
- C. Qualification - something that qualifies; a condition that must be complied with.
- D. Responsibility - the quality or state of being responsible.

Even a cursory reading of these commonly-understood definitions makes it clear that the disciplining of an employee is not encompassed within any of the concepts or definitions set forth above.

9. Thus, the names of the employees who have been disciplined do not relate to their compensation, duties, qualifications, or responsibilities. Instead, the name of an employee who has been disciplined is a personnel-related matter, the disclosure of which would be highly damaging to the reputation of the employee in the community at large. Certainly, § 364.183, Florida Statutes, was not intended to require such

disclosure.

10. If this Commission were to interpret § 364.183, Florida Statutes, to require public disclosure of any employee information that bears a relationship, even of an indirect or tangential nature, to an employee's job responsibilities, wages, or qualifications, then there would be literally nothing protected from disclosure. Put another way, a broad reading of the exceptions to 364.183(f), Florida Statutes, would reduce the public disclosure exemption for employee information to the point of nonexistence. Obviously, if the legislature had intended for this statute to be read in a way that would make the employee information exemption uniformly unavailable and essentially pointless, then it would simply not have bothered to create the exemption in the first place.

11. In this particular case, though, there is an equally compelling reason that these documents should be treated as confidential. Section 364.183, Florida Statutes, provides that in addition to the specifically identified types of documents that are confidential, such as those enumerated in subsection (f), any document that, if disclosed, "would cause harm to the ratepayers or the person's or company's business operations...is also entitled to protection." The potential for harm to Southern Bell's business operations that would necessarily result from disclosure of the subject information is both obvious and striking.

12. The discipline of Southern Bell's employees in this



matter was the result of a thorough, privileged internal investigation that was designed to determine whether or not a repair reporting problem existed. It was never contemplated by either the Company or the individuals involved that, in the aftermath of this effort by Southern Bell to police itself, there would be a resulting forced public disclosure that would subject the disciplined employees to the additional punishment of public opprobrium and scorn. In effect, the public disclosure of the names of the disciplined employees would convert internal discipline into an inappropriate and inflammatory "public shaming" of these employees.

13. Inasmuch as this docket already has resulted in widespread publicity as to Southern Bell, it is probable that the public disclosure of the identities of these employees would also be widely published. This disclosure is particularly unnecessary where, as here, the public will have access to all disciplinary information, except for the names of the employees themselves. Thus, for example, the number of employees disciplined, the stated basis for the discipline and the type of discipline would all be publicly available.

14. The public disclosure of the names of disciplined employees would have a significantly deleterious effect on morale that, in turn, would serve as a practical impediment to the functioning of the Company. Those who have cooperated with the efforts of the company to police itself have done so on the well-founded assumption that the information would be handled

discreetly and appropriately, and that it would result in a level of discipline, if any, that was warranted. If Southern Bell is now forced to reveal publicly the names of the employees disciplined, then the employees who have cooperated will no doubt feel that their good faith efforts to address any problems that may have occurred have been betrayed. It is easy to see how this sense of betrayal could result in morale problems that would be both widespread and severe.

15. Moreover, public disclosure could well result not only in general morale problems, but also in a general employee wariness and concern that would make future attempts to remedy any problems that may arise far more difficult. Southern Bell can only effectively investigate an internal problem with the cooperation of its employees. If the lesson to be learned by employees in this particular instance is that any cooperation may result in exposure of disciplined employees to the additional ordeal of public ridicule, then the prospect of obtaining adequate employee cooperation to address effectively any possible future problems diminishes significantly.

16. Further, the managers of Southern Bell who are charged with the duty of administering employee discipline will unquestionably be more hesitant to do so if they know that any employee disciplined for even the most minor infraction may later have that discipline publicly disclosed and widely published.

17. Finally, to reveal this information publicly would serve no purpose whatsoever. Arguably, if disclosure of the

identities of these employees served some public purpose, or if this disclosure were necessary for this Commission to deal thoroughly with the issues of this docket, then a balancing test might be necessary. That is, the Commission would need to balance the benefits to be derived from public disclosure against the detriment to the Company and the employees. In this case, however, public disclosure will result in no benefit whatsoever.

18. It is only the public disclosure of employees' names to which Southern Bell objects. Southern Bell has stated that it does not object to public disclosure of the extent of the employee discipline, the type of discipline, and the job responsibilities of those disciplined. There simply is nothing to be gained by the additional, gratuitous public disclosure of the identities of the particular persons disciplined. Florida Statutes § 364.183(f) clearly provides that the names of these employees should be kept confidential. To hold otherwise will do nothing more than damage, perhaps irreparably, the reputations of individual Southern Bell employees and expose them personally to public ridicule.

19. All of the information for which Southern Bell requests confidential treatment is intended to be treated as confidential, and has not been disclosed except pursuant to statutory provisions or private agreement that provides that the information will not be released to the public.

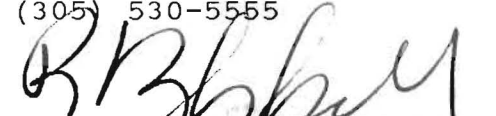
WHEREFORE, Southern Bell requests that the Commission grant its Request for Confidential Classification.

Respectfully submitted,

ATTORNEYS FOR SOUTHERN BELL  
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ATTACHMENT "A"  
Exhibit #3

FPSC DOCKET 910163-TL  
LATE-FILED EXHIBIT REQUESTS  
JUSTIFICATION FOR CONFIDENTIALITY REQUEST

1. The following documents contain employee personnel information that is not related to compensation, duties, qualifications and responsibilities of these employees. Accordingly, information is confidential pursuant to the terms of § 364.183(f), Florida Statutes, and is, therefore, exempt from the public disclosure requirements of § 119.07, Florida Statutes.

LOCATION OF THE PROPRIETARY INFORMATION

<u>PAGE NO.</u>	<u>LINE NOS./COL. NO.</u>	<u>REASON</u>
2	3, 13	1
3	3, 12	1
4	3	1
5	3, 11	1
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8	3, 13	1
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15	3, 13	1
16	3, 10	1
17	3	1
18	3, 11	1
19	3, 11	1
20	3	1
21	3, 19	1

ATTACHMENT "A"  
Exhibit #7

FPSC DOCKET 910163-TL  
LATE-FILED EXHIBIT REQUESTS  
JUSTIFICATION FOR CONFIDENTIALITY REQUEST

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<u>PAGE NO.</u>	<u>LINE NOS./COL. NO.</u>	<u>REASON</u>
2	3-6, 7-18, 19 & 20	1