

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In RE: Docket No. 910163-TL-920260-TL  
Petition on behalf of Citizens)  
of the State of Florida to )  
initiate investigation into )  
integrity of Southern Bell's )  
repair service activities and )  
reports. )

MOTION TO QUASH SUBPOENA

COMES NOW, MICHAEL TARTAGLIO, by and through his undersigned attorneys, and moves this Honorable Florida Public Service Commission for an order quashing the subpoena received by Michael Tartaglio, a copy of which is attached as Exhibit "A", and as grounds therefore would state:

1. That Florida Administrative Code Section 25-22.048 provides "(3) Any party or person against whom a subpoena is directed may file a motion to quash or limit the subpoena with the agency having jurisdiction of the dispute. The motion shall set forth the grounds relied upon."

2. Your movant received an original subpoena issued by the Florida Public Service Commission by regular mail on or about June 12, 1993 requiring him to appear on June 17, 1993 at 5:00 p.m. to testify in this action. Your movant has been unable to obtain counsel of his choice whom may competently prepare for a deposition scheduled for June 17, 1993 at 5:00 p.m.

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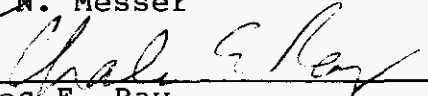
3. According to the authority Trawick's Florida Practice and Procedure, Section 16-5 1984 at least five days notice should be given to local attorneys prior to requiring a party to appear for a deposition. In this case counsel has available only four days notice to prepare for this deposition. In addition, according to Trawick's Florida Practice and Procedure 1984 edition Section 16-5 no one should be expected to attend a deposition through a lunch hour or after normal business hours unless consent to do so is obtained. In this case the deposition calls for testimony to be given commencing at 5:00 p.m. which is not the normal business hours of the movant's attorneys. Section 25-22.048 Florida Administrative Code also provides "(4) a subpoena may be served by any person authorized by law to serve process or by any person who is not a party and who is of majority age. Service shall be made by delivering a copy thereof to the person named in the subpoena...(5) service of a subpoena may also be affected by certified mail, in which case the return receipt must be signed by person named in the subpoena." In the instant case, service of this subpoena was not had upon the witness by Sheriff's Service or by Certified Mail.

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by mail this 15<sup>th</sup> day of June, 1993, to Steve Tribble, Director Records and Reporting, Florida Public

Service Commission, By Kay Flynn, Chief Bureau of Records, and  
Janis Sue Richardson, Attorney for Citizens of Florida Office of  
Public Counsel, 111 W. Madison Street, Room 812, Tallahassee, FL  
32399-1400.

MESSER AND RAY

  
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Attorneys for Mike Tartaglio

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SUBPOENA

THE STATE OF FLORIDA

TO: Michael Tartaglio

**YOU ARE COMMANDED** to appear before the Florida Public Service Commission at Southern Bell Telephone & Telegraph Co., 3300 Okeechobee, Ft. Pierce, Florida

on June 17, 1993, at 5 PM., to testify in this action. If you fail to appear, you may be held in contempt.

**YOU ARE SUBPOENAED** to appear by the following attorneys and unless excused from this subpoena by these attorneys or the Commission, you shall respond to this subpoena as directed.

DATED on June 9, 1993.

Steve Tribble, Director  
Records and Reporting  
Florida Public Service Commission

By: Kay Flynn

Kay Flynn, Chief  
Bureau of Records

Janis Sue Richardson  
Janis Sue Richardson

( S E A L )

Attorney for Citizens of Florida  
Office of Public Counsel  
111 W. Madison St., Room 812  
Address Tallahassee, FL 32399-1400