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July 22, 1991

Mr. Steve C. Tribble
Director, Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32301

Re: Docket No. 910163-TL - Repair Service Investigation

Dear Mr. Tribble:

Enclosed please find an original and fifteen copies of Southern Bell Telephone and Telegraph Company's Response to Public Counsel's Response and Opposition to Southern Bell's Motion for Confidential Treatment and Permanent Protective Order, which we ask that you file in the captioned docket.

- ACK
- AFA _____
- APP _____
- CAF _____
- CMU
- CTR _____
- EAG _____
- LEG 1
- LIN 6 Enclosures
- OPC _____
- RCH _____
- SEC 1
- WAS _____
- OTH _____

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 yours,
Harris R. Anthony
Harris R. Anthony
(2X)

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

RECEIVED & FILED

TB
FPSC BUREAU OF RECORDS

DOCUMENT NUMBER-DATE
07413 JUL 22 1991
FPSC-RECORDS/REPORTING

CERTIFICATE OF SERVICE
Docket No. 910163-TL

I HEREBY CERTIFY that a copy of the foregoing has been
furnished by United States Mail this *22nd* day of *July*, 1991,
to:

Charles J. Beck
Assistant Public Counsel
Office of the Public Counsel
111 W. Madison Street
Room 812
Tallahassee, FL 32399-1400

Suzanne Summerlin
Division of Legal Services
Florida Public Svc. Commission
101 East Gaines Street
Tallahassee, FL 32399-0863

Harris K. Anthony

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the)
Integrity of Southern Bell's)
Repair Service Activities and)
Reports)

Docket No. 910163-TL
Filed July 22, 1991

**SOUTHERN BELL'S RESPONSE TO PUBLIC COUNSEL'S RESPONSE
AND OPPOSITION TO SOUTHERN BELL'S MOTION FOR
CONFIDENTIAL TREATMENT AND PERMANENT PROTECTIVE ORDER**

COMES NOW Southern Bell Telephone and Telegraph Company ("Southern Bell" or "Company"), pursuant to Rule 25-22.037, Florida Administrative Code, and files its Response to the Office of Public Counsel's ("Public Counsel") Response and Opposition to Southern Bell's Motion for Confidential Treatment and Permanent Protective Order.

1. On February 18, 1991, Public Counsel filed its First Set of Requests for Production of Documents in which it requested Southern Bell's internal network review reports of installation and maintenance centers in Florida. On April 9, 1991, Southern Bell produced the internal review reports to Public Counsel. These documents were subject to a Motion for Temporary Protective Order, which Motion was based upon the confidential nature of the documents. Subsequent to that Motion, Public Counsel notified Southern Bell that it intended to use these documents during the hearing, whereupon Southern Bell filed, on June 24, 1991, its Motion for Confidential Treatment and Permanent Protective Order.

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On July 8, 1991, Public Counsel filed its Response in Opposition to Southern Bell's Motion for Confidential Treatment and Permanent Protective Order.

2. Public Counsel argues in its July 8th Response that there is no "privilege for critical self-analysis" in Florida and that "the law concerning claims for privilege does not determine whether a document is confidential under Florida's Public Records Law." (Public Counsel's Motion, par. 6) Public Counsel also argues that while the Legislature, by enacting Section 364.183(3)(b), Florida Statutes, specifically excluded reports of internal auditors from disclosure to the public, the Legislature did not intend to exempt all self-critical documents from public disclosure.

3. Public Counsel's effort to construe Southern Bell's Motion as requesting a "privilege" for the network internal reviews is misplaced. Southern Bell has never requested that the documents in question be treated as privileged nor has it ever requested that the Commission apply the federal common law privilege in this case. Southern Bell discussed these privilege cases merely to demonstrate, by analogy, the especially sensitive nature of this type of document.

4. What Southern Bell did argue in its Motion was that the internal reviews are conducted for the same purpose that internal

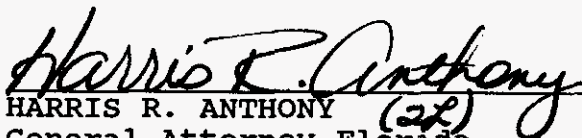
audits are performed. The Commission should therefore treat these documents as confidential for the same reasons that the Legislature included internal audits in the Section 364.183, Florida Statutes, examples of confidential material. As Southern Bell noted in its Motion for Confidential Treatment, and as Public Counsel admits in its Response, the list of types of confidential documents found in Section 364.183(3), Florida Statutes, "is not necessarily an exhaustive list of such documents". (emphasis added) (Public Counsel's Response, par. 7) Thus, the Legislature gave the Commission the authority to determine in its discretion that other documents, such as the internal reviews, are confidential even though the documents are not specifically enumerated in Section 364.183.

5. As Southern Bell explained in its Motion, the difference between the network internal reviews and "internal audits" is that the internal reviews are performed by a network department review staff rather than a group of employees denominated as "auditors". Under these circumstances, and for the reasons set forth in more detail in Southern Bell's Motion for Confidential Treatment, the Commission should hold these reviews to be confidential.

WHEREFORE, Southern Bell requests that the Commission grant its June 24, 1991 Motion for Confidential Treatment and Permanent Protective Order.

Respectfully submitted,

SOUTHERN BELL TELEPHONE AND
TELEGRAPH COMPANY



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