



considerations which attempt to weigh the benefits to be derived from public disclosure against the detriment to the Company and its employees resulting from such disclosure.<sup>2</sup>

Section 364.183, Fla. Stat. (1991) defines "proprietary confidential business information" as information which is one of the statutory examples set forth therein or information the disclosure of which will cause harm to Southern Bell or its ratepayers. Pursuant to section 364.183 and Fla. Admin. Code Rule 25-22.006, Southern Bell has the burden of demonstrating that information is qualified for confidential classification under section 364.183.

Southern Bell seeks confidential classification for the names, titles, business addresses and business telephone numbers of current employees who were disciplined by Southern Bell and for the names, addresses and telephone numbers of former employees who were disciplined by the Company. Section 364.183(3)(f), Fla. Stat., states that "proprietary confidential business information" includes "[e]mployee personnel information unrelated to compensation, duties, qualifications or responsibilities." In support of its position that this information falls within the specific exception to Florida's Public Records Act, found in section 364.183(3)(f), Fla. Stat., the Company contends that information which identifies current or former employees who were disciplined by Southern Bell is unrelated to the employees' compensation, duties, qualifications or responsibilities.

In prior rulings by the Prehearing Officer in this docket, it was held that the identities of employees who were disciplined by Southern Bell is information related to performance of the employees' jobs and, therefore, it is employee personnel information which is related to duties or responsibilities.<sup>3</sup> As such, it was determined that this information is not "proprietary confidential business information" as defined by the legislature in section 364.183(3)(f) and, hence, it is information not exempt from

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<sup>2</sup> Gadd v. News-Press Publishing Co., 412 So.2d 894, 895 (Fla. 2d DCA 1982).

<sup>3</sup> In re Investigation into the Integrity of Southern Bell Telephone and Telegraph Company's Repair Service Activities and Reports, 92 F.P.S.C. 9:470 (1992); Order No. PSC-93-0905-CFO-TL (extensively discusses the issue).

public disclosure by that provision.<sup>4</sup> In this instance, the Company's interrogatory answers which disclose the names of current Southern Bell employees who were disciplined by the Company are not "proprietary confidential business information" under section 364.183(3)(f).

Moreover, the titles of current employees who were disciplined by Southern Bell and information which identifies where these employees are located in the Southern Bell organization, such as their business addresses and business telephone numbers, to a large extent identifies that employee's duties and responsibilities. Hence, it is employee personnel information related to duties or responsibilities. As such, this information is not "proprietary confidential business information" as defined by the legislature in section 364.183(3)(f) and is not exempt from public disclosure by that provision.

Southern Bell also seeks confidential classification for the names, addresses and telephone numbers of former employees who were disciplined by the Company. Section 364.183(3)(f) refers to "employee personnel information." The statute, however, does not distinguish personnel information relating to current employees from personnel information relating to former employees.<sup>5</sup> The identities of former employees who were disciplined by Southern Bell is employee personnel information related to the performance of the employees' jobs at Southern Bell and, therefore, it is employee personnel information related to duties or responsibilities. It is information not exempt by section 364.183(3)(f) from public disclosure. However, the current addresses and telephone numbers of former Southern Bell employees is employee personnel information unrelated to their compensation, duties, qualifications or responsibilities as a Southern Bell employee, and, therefore it is "proprietary confidential business information" exempt from public disclosure by section 364.183(3)(f).

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<sup>4</sup> Id.

<sup>5</sup> Cf. Gadd v. News-Press Publishing Company, Inc., 412 So.2d 894 (Fla. 2d DCA 1982) (newspaper entitled under Ch. 119 to inspect the personnel files of past and present medical staff physicians of a public hospital).

Accordingly, Southern Bell's request for confidential treatment for its answers to Staff's Seventh Interrogatories, nos. 102, 103 and 104, which comprise Document No. 935-93, is granted in part and denied in part. Specifically, Southern Bell's request for confidential classification is granted for the following information identified by interrogatory number, page and line number:

<u>Interrogatory no.</u>	<u>Page nos.</u>	<u>Line nos.</u>
102	1	12 - 14 16 - 18 20 - 22 24 - 26 28 - 30 32 - 34 36 - 38
	2	8 - 10 12 - 14
103	1	11 - 13 15 - 17

Southern Bell's request for confidential classification is denied for the following information identified by interrogatory number, page and line number:

<u>Interrogatory no.</u>	<u>Page nos.</u>	<u>Line nos.</u>
102	1	11 15 19 23 27 31 35
	2	7 11

<u>Interrogatory no.</u>	<u>Page nos.</u>	<u>Line nos.</u>
103	1	10 14 18
104	2 3 4 5	2 - 49 2 - 49 2 - 48 2 - 56

Based on the foregoing, it is, therefore,

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that Southern Bell's Motion for Confidential Treatment for Document No. 935-93 is granted in part and denied in part as set forth in the body of this Order. It is further

ORDERED that pursuant to section 364.183, Fla. Stat., and Fla. Admin. Code Rule 25-22.006, any confidentiality granted to the documents specified herein shall expire eighteen (18) months from the date of issuance of this Order in the absence of a renewed request for confidentiality pursuant to section 364.183. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 30th day of June, 1993.

  
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SUSAN F. CLARK, Commissioner and  
Prehearing Officer

( S E A L )  
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<u>Interrogatory no.</u>	<u>Page nos.</u>	<u>Line nos.</u>
103	1	10 14 18
104	2 3 4 5	2 - 49 2 - 49 2 - 48 2 - 56

Based on the foregoing, it is, therefore,

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that Southern Bell's Motion for Confidential Treatment for Document No. 935-93 is granted in part and denied in part as set forth in the body of this Order. It is further

ORDERED that pursuant to section 364.183, Fla. Stat., and Fla. Admin. Code Rule 25-22.006, any confidentiality granted to the documents specified herein shall expire eighteen (18) months from the date of issuance of this Order in the absence of a renewed request for confidentiality pursuant to section 364.183. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 30th day of June 1993.

  
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SUSAN F. CLARK, Commissioner and  
Prehearing Officer

( S E A L )  
JRW

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by section 120.59(4), Fla. Stat. (1991) to notify parties of any administrative hearing or judicial review of Commission orders that is available under sections 120.57 or 120.68, Fla. Stat. (1991 & 1992 Supp.) 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 Fla. Admin. Code Rule 25-22.038(2), if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Fla. Admin. Code Rule 25-22.060, 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 wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Fla. Admin. Code Rule 25-22.060. 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 Fla. R. App. P. 9.100.