

9



JACK SHREVE
PUBLIC COUNSEL

STATE OF FLORIDA
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, Florida 32399-1400
904-488-9330

August 21, 1992

Steve Tribble, Director
Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, FL 32399-0850

ORIGINAL
FILE COPY

Re: Docket No. 920260-TL
Docket No. 910163-TL

Dear Mr. Tribble:

Enclosed for filing in the above-referenced dockets on behalf of the Citizens of the State of Florida are 15 copies of the Citizens' 8th Motion to Compel and Request for In Camera Inspection of Documents and Expedited Decision.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

ACK ✓
AFA 3
APP _____
CPE _____
CMU (circled)
CTR _____
EAG _____
LEG 1 w/m
LIN 6
CPC _____
RCH _____
SEC 1
WAS _____
OTH 1 ea of KP

Sincerely,

Charles J. Beck
Charles J. Beck
Deputy Public Counsel

Enclosure

RECEIVED & FILED

EPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

09496 AUG 21 1992

EPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition on behalf of Citizens)
of the State of Florida to Initiate) Docket No. 910163-TL
Investigation into the Integrity of)
Southern Bell Telephone and Telegraph)
Company's Repair Service Activities)
and Reports.)

Comprehensive Review of the Revenue)
Requirements and Rate Stabilization) Docket No. 920260-TL
Plan of Southern Bell Telephone &)
Telegraph Company) Filed: August 21, 1992

**CITIZENS' EIGHTH MOTION TO COMPEL AND REQUEST FOR IN CAMERA
INSPECTION OF DOCUMENTS AND EXPEDITED DECISION**

The Citizens of Florida ("Citizens"), by and through Jack Shreve, Public Counsel, request the Florida Public Service Commission: (1) to compel BellSouth Telecommunications, Inc., ("BellSouth") d/b/a/ Southern Bell Telephone and Telegraph Company to produce each of the documents responsive to the Citizens' request for production of documents as late-filed exhibits from the deposition of Mr. C.L. Cuthbertson, Jr. and Mr. C.J. Sanders taken on June 17, 1992; (2) to conduct an in camera inspection of all documents and portions of documents withheld by BellSouth Telecommunications based on claims of attorney-client and work product privileges; and (3) to render an expedited decision.

A. Background

1. On June 17, 1992, Public Counsel deposed Mr. C.L. Cuthberston, Jr. and Mr. C.J. Sanders. During the deposition, the parties agreed to produce certain documents as late-filed exhibits. On August 7, 1992, BellSouth filed its response to Public Counsel's request for these late-filed exhibits and claimed that some of the requested exhibits were privileged under the attorney-client privilege and work product privilege. Specifically, the information for which the company has asserted a claim of privilege includes:

- a) Panel recommendations regarding craft discipline;
- b) Panel recommendations regarding pay grade 5 and below discipline;

BellSouth stated that it would treat the request for late filed exhibits the same as a request for production of documents.

B. Relief Requested

2. Pursuant to section 350.0611, Florida Statutes (1991), and Florida Rule of Civil Procedure 1.280, the Citizens move this Commission to compel BellSouth to produce all documents being withheld under a claim of attorney-client/work product privilege. The Citizens request the Commission to conduct an in camera inspection of these documents under Florida Rule of Civil

Procedure 1.280(c). The Citizens believe that the substantial, unwarranted and impermissible withholding of relevant documents and information, if sanctioned by the Commission, will constitute a denial of due process by preventing the adequate preparation of our case. Shevin, Expediting Litigation, 51 Fla. B.J. 529, 531 (Oct. 1977) ("The Administrative Procedure Act, which is predicated upon due process and expediency, has built-in time limitations which serve to protect both the public's and an individual's right to notice and expeditious determination."); see Southern Bell Tel. & Tel. Co. v. Kaminester, 400 So. 2d 804 (Fla. 3d DCA 1981) (finding that trial court abused its discretion by denying Southern Bell's document production request until after the first day of trial, thereby, denying Southern Bell sufficient time to prepare its case). Therefore, Citizens request the Commission to render a "just, speedy and inexpensive determination" on Citizens' motion. Fla. R. Civ. P. 1.010; Fla. Admin. Code R. 25-22.035(3) (generally adopting the Florida Rules of Civil Procedure as governing Commission proceedings).

C. Attorney-Client Privilege

3. In Florida, the attorney-client privilege is derived from statute, not common-law. Corry v. Meggs, 498 So.2d 508 (Fla. 1st DCA 1986) (codified at § 90.502, Fla. Stat.), review denied, 506 So. 2d 1042 (Fla. 1987). The statutory privilege for confidential communications does not encompass the work product

privilege. City of Williston v. Roadlander, 425 So. 2d 1175 (Fla. 1st DCA 1983) (finding that work product privilege does not preclude access to city hospital's documents subject to disclosure under the public records law). In the absence of Florida case law on point, state courts may turn to federal decisions as persuasive. Id. at 510.

4. The attorney-client privilege applies to corporations. UpJohn v. United States, 449 U.S. 383, 101 S.Ct. 677, 66 L.Ed. 2d 584 (1981) (holding that communications by UpJohn employees, who were outside the managerial group but who were communicating to the 'in-house' counsel at the direction of superiors and whose responses were within their scope of duties, were protected by the attorney-client privilege). The privilege protects the communication not the underlying facts. Id.; In Re: Grand Jury Subpoena Duces Tecum, 731 F.2d 1032, 1037 (2d Cir. 1984) ("[I]t is important to bear in mind that the attorney-client privilege protects communications rather than information; the privilege does not impede disclosure of information except to the extent that that disclosure would reveal confidential communications." citation omitted). "When the ultimate corporate decision is based on both a business policy and a legal evaluation, the business aspects of the decision are not protected simply because legal considerations are also involved." Hardy v. New York News, Inc., 114 F.R.D. 633, 643-44 (S.D.N.Y. 1987).

5. In the administrative context, the attorney-client privilege is narrowly applied to regulated utilities. E.g. Consolidated Gas Supply Corp., ¶ 63,048 (Dec. 2, 1981). The "narrow view" protects communications between a client and his attorney "only to the extent they are based upon, and thus reveal, confidential information furnished by the client." Id. (citation omitted). Bruce Birchman, the administrative law judge, found that the "narrow view" was better suited in administrative proceedings because "[it] distinctly avoids an overly broad corporate information shield in theory as well as in fact by allowing for excision of a document to permit discovery only of factual matters," and best ensures that the Commission can meet its continuing obligation to protect the public interest. Id. at 65,237. BellSouth's claim of privilege for the late-filed deposition exhibits, if sustained, will effectively blanket facts critical to a just determination of this case. The Commission's duty to protect the public interest mandates a decision to compel BellSouth to disclose the facts it is withholding. Any legal advice or opinion that may be entwined with the facts may be excised in an in camera review.

6. The objecting party has the burden of establishing the existence of the privilege. Hartford Accident & Indemnity Co. v. McGann, 402 So. 2d 1361 (Fla. 4th DCA 1981); International Tel. & Tel. Corp. v. United Tel. Co. of Fla., 60 F.R.D. 177, 184 (M.D. Fla. 1973) (stating that all elements of the privilege must be

proven in order to substantiate a claim).¹ Only if clearly shown does the moving party have to demonstrate need to overcome the privilege. Id. Black Marlin Pipeline Co., 9 F.E.R.C. ¶63,015, 65,085 (Oct. 18, 1979) (applying 'narrow application' of privilege to deny a claim of privilege to an attorney's handwritten notes and memoranda where "advice - generating request for comments was also made to non-lawyer corporate officers.")

7. A final determination of privilege for the documents withheld must be made by the Commission, not by the party asserting the privilege. The Commission can only determine the existence of a privilege after a careful examination and narrow application of the law to the specific documents in an in camera inspection. Eastern Air Lines, Inc. v. Gellert, 431 So. 2d 329 (Fla. 3d DCA 1983) (directing the trial court to conduct an in camera inspection of documents it had decided, without inspection, were not privileged as a matter of law). "The purpose of this examination is not to determine whether there is good cause to overcome the privilege, but rather to determine whether the items are, as a matter of law and fact, entitled to

¹ The elements of the attorney-client privilege are: "(1) Where legal advice of any kind is sought (2) from a professional legal adviser in his capacity as such, (3) the communications relating to that purpose, (4) made in confidence (5) by the client, (6) are at his instance permanently protected (7) from disclosure by himself or by the legal adviser, (8) except the protection be waived." International Tel. & Tel. Corp, 60 F.R.D. at 184-85 n.6, quoting 8 Wigmore, Evidence § 2292 at 554 (McNaughton rev. 1961).

the privilege at all." International Tel. & Tel. Corp. v. United Tel. Co. of Fla., 60 F.R.D. 177, 185 (M.D. Fla. 1973) (emphasis in original).

8. The attorney client privilege does not apply to documents prepared for a business purpose,² to preexisting documents that would have been subject to disclosure when in the possession of the client (client cannot make unprivileged documents privileged by handing them over to his attorney),³ when the advice of the attorney is sought in furtherance of a

² Skorman v. Hovnanian of Fla., Inc., 382 So. 2d 1376, 1378 (Fla. 4th DCA 1980) (acting as escrowee in real estate transaction would not render communication privileged, but preparation of agreement, which involved legal advice, would).

³ Paper Corp. of America v. Schneider, 563 So. 2d 1134 (Fla. 3d DCA 1990) (turning over financial records to accountant did not shield records under accountant-client privilege); Tober v. Sanchez, 417 So. 2d 1053, 1055 (Fla. 3d DCA 1982), (finding that employee-prepared internal accident reports, which were subject to disclosure under the public records law, did not become privileged by transferring them to an attorney) review denied, 426 So. 2d 27 (Fla. 1983); Goldberg v. Ross, 421 So. 2d 669 (Fla. 3d DCA 1982) (judgment debtor's trust fund records held by attorney not privileged); but see Briggs v. Salcines, 392 So. 2d 263 (Fla. 2d DCA 1980) (tape recordings, which were privileged in hands of defendant under fifth amendment protection against compelled testimony of incriminating nature, were likewise privileged when transferred to attorney), pet. for review denied, 397 So. 2d 799 (Fla.), cert. denied, 454 U.S. 815 (1981).

crime or fraud,⁴ or to the extent that the attorney acted in a non-legal capacity.⁵

9. The Commission should compel BellSouth to produce the documents being withheld. Information related to employee discipline and personnel matters are business documents and not investigatory documents. Whether a company chooses to discipline employees as a result of information uncovered in an internal investigation is unrelated to any statements made by employees during that investigation. While employee statements to internal investigators might contain privileged communications, a company's disciplinary actions against employees is strictly a business decision. As such, any documents related to personnel discipline do not qualify as privileged from discovery.

10. BellSouth has failed to demonstrate that the documents contain privileged communications. No attorney was involved in the discussions on craft employee discipline. Deposition of C.L. Cuthbertson and C.J. Sanders at 13-16 (June 17, 1992)
(disciplinary panel comprised of human resources and labor

⁴ See Florida Mining & Minerals Corp. v. Continental Cas. Co., 556 So. 2d 518, 519 (Fla. 2d DCA 1990) (prima facie evidence that petitioners affirmatively sought the advice of counsel to procure fraud is prerequisite to invoking crime-fraud exception); see also United States v. Zolin, 491 U.S. 554 (1989) (contents of the documents can be used to support independent evidence of the crime or fraud).

⁵ Harper v. Auto-Owners Ins. Co., 138 F.R.D. 655, 671 (S.D. Ind. 1991) (legal advisor also acting as claims adjuster, claims process supervisor, and investigation monitor).

relations personnel) [hereinafter deposition]. The discipline panel reviewed information that derived from the company's internal investigation. Id. at 16-17. The panel's responsibility was to recommend appropriate discipline for non-management or craft employees. Id. Mr. Cuthbertson recalled that the panel's recommendations involved 75 to 80 people. Id. at 22. The panel's recommendations were reviewed by higher level human resource managers. Id. at 23-24. As of June 17, 1992, no disciplinary action had been taken against craft employees. Id. at 18-21. It is evident from the deposition that the discussions regarding disciplinary recommendations for craft employees is not a privileged communication between staff and company counsel, but a managerial review under the company's personnel practices. BellSouth has again failed to provide even the slightest basis for granting its request. Conclusory claims of privilege will not suffice. The Commission should order BellSouth to produce the withheld documents immediately for an in camera inspection. Public Counsel asserts that such an inspection will reveal the true nature of these documents as business matters and not attorney-client communications.

11. Further, BellSouth has waived the attorney-client privilege to this information by production of the disciplinary records of management employees. BellSouth's response to Citizens' 22d Production of Documents Request (Apr. 29, 1992). [Deposition exhibits 2 & 11] BellSouth's production of the

disciplinary review process results for management belies the claim of privilege for craft employees. Further, the unwarranted withholding of the names of the 75 to 80 craft employees recommended for discipline thwarts Citizens' right to depose persons with knowledge of the facts in the case.

12. If the information contained in the withheld documents proves Citizens' allegation of falsification of customer records and the Commission finds the documents privileged in their entirety, then Citizens move the Commission to strike any affirmative defense raised on this issue. Fla. Stat. § 90.510 (1991); see Affiliated of Fla., Inc. v. U Need Sundries, Inc., 397 So. 2d 764 (Fla. 2d DCA 1981) (authority to strike defenses relating to claim of attorney-client privilege did not exist under pre-code law).

D. Work Product Privilege

13. The Supreme Court of Florida has stated that the purpose of the discovery rules is to expedite the search for relevant facts, to facilitate trial preparation, and to assist the court in its search for truth and justice by eliminating gamesmanship, surprise and legal gymnastics as determining factors in litigation. Dodson v. Persell, 390 So. 2d 704 (Fla. 1980) (holding that surveillance films are not privileged when they will be used as evidence or, if the films are unique, when

they are materially relevant and unavailable). The Supreme Court of Florida relied on federal precedent set by the United States Supreme Court decision in Hickman v. Taylor, 329 U.S. 495 (1974) as authority for claims based on the work product privilege. Hence, the work product privilege is derived from judicial rule and state case law, not statute. Fla. R. Civ. P. 1.280(b)(2).

14. The work product doctrine protects an attorney's mental impressions, investigative materials, legal theories, and personal notes from discovery when prepared in anticipation of litigation by an attorney or an employed investigator at the direction of a party. Id.; accord Reynolds v. Hofmann, 305 So. 2d 294 (Fla. 3d DCA 1974) (categorizing attorney's views of the evidence, witnesses, jurors, legal citations, proposed arguments, jury instructions, diagrams and charts as work product). "The general rule for determining whether a document can be said to have been 'prepared in anticipation of litigation' is whether the 'document can fairly be said to have been prepared or obtained because of the prospect of litigation, . . . [and not] in the regular course of business. 8 Wright & Miller, Federal Practice & Procedure: Civil § 2024 (1970)." Carver v. Allstate Ins. Co., 94 F.R.D. 131 (1982); but see Harper v. Auto-Owners Ins. Co., 138 F.R.D. 655, 661-622 n.2 (S.D. Ind. 1991) (disagreeing with the Carver court and concluding that documents prepared for the concurrent purposes of litigation and business "should not be classified as work product").

15. Work product is a more limited privilege than the attorney-client privilege. Work product only gives a qualified immunity from discovery for documents and tangible things prepared in anticipation of litigation by the attorney or at the attorney's request. Proctor & Gamble Co. v. Swilley, 462 So. 2d 1188 (Fla. 1st DCA 1985). The attorney may be required to disclose the existence of privileged material, but not its contents, unless an adverse party shows need and an inability to obtain the materials from other sources without undue hardship. Alachua Gen. Hosp. v. Zimmer USA, Inc., 403 So. 2d 1087 (Fla. 1st DCA 1981) (holding that work product immunity attaching to information in initial wrongful death suit carried forward to subsequent litigation); Fla. R. Civ. P. 1.280(b)(2); accord Transcontinental Gas Pipe Line Corp., 18 F.E.R.C. ¶ 63,043 (Feb. 9, 1982) (finding that materials that were related to the issue, which were prepared at the direction of counsel, were discoverable by the adverse party because the materials could not be duplicated without undue hardship).

16. The objecting party has the burden of first showing the existence of the privilege. Hartford Accident & Indem. Co. v. McGann, 402 So. 2d 1361 (Fla. 4th DCA 1981). Only if clearly shown does the moving party have to demonstrate need to overcome the privilege. Id.; accord Black Marlin supra at 65,088 (material written by non-attorney at request of attorney does not automatically make it privileged work product). The Commission

should review the withheld documents to determine whether they qualify for even this limited privilege. Austin v. Barnett Bank of So. Fla., 472 So. 2d 830 (Fla. 4th DCA 1985) ("Where a claim of privilege is asserted, the trial court should hold an in camera inspection to review the discovery requested and determine whether assertion of the privilege is valid.").

17. Florida courts have distinguished between fact and opinion work product. E.g., State v. Rabin, 495 So. 2d 257 (Fla. 3d DCA 1986) (holding that attorney's fact work product was discoverable after the case terminated). "Generally, fact work product is subject to discovery upon a showing of 'need,' whereas opinion work product is absolutely, or nearly absolutely, privileged." Id. at 262; see Levingston v. Allis-Chalmers Corp., 109 F.R.D. 546 (S.D. Miss. 1985) (extending perpetual protection to opinion work product, but not fact work product, used in prior, terminated and unrelated cases).

18. Several exceptions to the work product doctrine exist: (1) opinion work product used by an expert witness in formulating his opinion or testimony is discoverable on the basis of need of the opposing party to prepare for effective cross-examination;⁶

⁶ Boring v. Keller, 97 F.R.D. 404 (D. Colo. 1983); Zuberbuhler v. Division of Admin., 344 So. 2d 1304 (Fla. 2d DCA 1977) (permitting discovery of opposing party's expert witness's evidentiary opinions while protecting expert's non-evidentiary opinions promotes fairness through encouraging settlements by exposing both parties strengths and weaknesses and by providing a more thorough examination of expert witnesses for the jury),

(2) materials used by an opposing party to cross-examine or impeach a witness is discoverable to further effective cross-examination and rebuttal;⁷ (3) work product protection may be waived by disclosure;⁸ and documents concurrently created for business purposes are discoverable.⁹

19. Personnel decisions are business decisions. Decisions as to whether or not to discipline employees for their conduct while performing their assigned work are management concerns. Management may be concerned over the impact on employee morale if a large number of employees are disciplined, or the potential impact of adverse publicity if the information as to large scale discipline is made public, or the adverse impact on its future

cert. denied, 358 So. 2d 135 (Fla. 1978); but see Hamel v. General Motors Corp., 128 F.R.D. 281 (D. Kan. 1989) (concluding that opinion work product used by expert in preparation of testimony was not discoverable as the adverse party could not meet the "substantial need" test as the party failed to show that the expert was influenced by the documents in the development of his opinion or preparation for testimony).

⁷ Mims v. Casademont, 464 So. 2d 643 (Fla. 3d DCA 1985) (holding that reports prepared by experts expected to testify at trial were discoverable).

⁸ State v. Rabin, 495 So. 2d 257 (Fla. 3d DCA 1986).

⁹ Harper v. Auto-Owners Ins. Co., 138 F.R.D. 655 (S.D. Ind. 1991); see United States v. El Paso Co., 682 F.2d 530 (5th Cir. 1982) (tax pool analysis), cert. denied, 466 U.S. 944 (1984); accord Hardy, 114 F.R.D. at 644 (company's affirmative action plan sent to house counsel); United States v. Gulf Oil Corp., 760 F.2d 292 (Temp. Emer. Ct. App. 1985) (auditors' financial reports prepared pursuant to requirements of federal securities laws); Soeder v. General Dynamics Corp., 90 F.R.D. 253 (D. Nev. 1980) (in-house reports on air crash); Consolidated Gas Supply Corp., 17 F.E.R.C. ¶63,048 (Dec. 2, 1981) (summary of corporation's business practices).

negotiations with its employees' union, or the possible loss of a number of highly trained employees. All these concerns are business concerns, which do not make the documents privileged work product. See Soeder v. General Dynamics Corp., 90 F.R.D. 253, 255 (D. Nev. 1980) (company's in-house air crash accident report, while prepared in anticipation of litigation, was equally spurred by a desire to improve the quality of its product, to protect future passengers, to avoid adverse publicity, and to promote its own economic interests); cf. Proctor & Gamble Co. v. Swilley, 462 So. 2d 1188, 1193 (Fla. 1st DCA 1985) (scientific and technical documents prepared in anticipation of litigation are not disqualified from work product immunity). Given BellSouth's business interests, these documents were prepared for ordinary business purposes, and therefore, are discoverable.

20. Again, conclusory claims of work product privilege are insufficient to immunize these documents from discovery. The Commission should order BellSouth to produce the documents immediately for an in camera review. Following the review, Citizens' ask this Commission to compel production of these documents in their entirety, or, if some portions are determined to be covered by the privilege, then to produce excised copies. First, however, BellSouth must assert a colorable claim before the privilege can be applied to the requested information.

21. BellSouth has waived the work product privilege concerning these documents by production of similar documents involving management personnel. BellSouth's response to Citizens 22d Production of Documents request (Apr. 29, 1992) [Deposition exhibits 2 and 11]. BellSouth produced the disciplinary entries for management personnel that resulted from the panel's review. BellSouth also produced Mr. Cuthbertson's handwritten notes detailing the reasons for disciplining individual managers.¹⁰ Id. [Deposition exhibits 3-7, 12-13] Hence, the work product privilege has been waived by the company for the documents relating to craft disciplinary recommendations.

22. Citizens have a substantial need for the information contained in these documents and cannot replicate the information.¹¹ The employees' names are being withheld under a claim of privilege, so Citizens are not afforded an opportunity to discover the information through alternative means, such as depositions. The company is the sole proprietor of the factual data, which forms the basis for these documents. The company has asserted a claim of privilege for the factual data, which is contained in the internal audits, which are the subject of other

¹⁰ BellSouth has submitted a written request to Public Counsel to return these handwritten notes under a belated claim of attorney-client and work product privileges. Public Counsel has declined to return these notes on the grounds of waiver and the public records law.

¹¹ State Farm Mutual Auto. Ins. Co. v. LaForet, 591 So. 2d 1143 (Fla. 4th DCA 1992) (demonstration of need and undue hardship required under Fla. R. Civ. P. 1.280(b)(2)).

motions to compel in this docket. The company has buried the facts and the identity of persons with knowledge of those facts behind a claim of privilege, thereby, foreclosing Citizens' due process rights to the facts in this case. Facts are not privileged. The Commission should compel BellSouth to produce the exhibits requested.

F. Conclusion

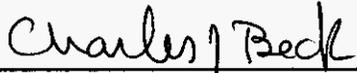
23. BellSouth has withheld untold numbers of documents and the identity of persons with knowledge of the facts of the matters at issue in this case under conclusory claims of privilege. It is evident that the documents being withheld are not privileged. These documents are related to personnel actions taken by non-legal managers in accordance with company personnel practices. Further, similar documents have been produced by the company, which waives any ostensible claim of privilege the company is asserting. Citizens due process rights have been seriously compromised by the delay in receiving the information needed to carry its investigation forward. The Commission should not permit regulated utilities to deliberately delay the discovery process by transparent claims of privilege.

WHEREFORE, Citizens request this Commission to conduct an in camera review of the withheld documents on an expedited basis,

and at the conclusion of the review, to compel BellSouth to produce the documents forthwith.

Respectfully submitted,

JACK SHREVE
Public Counsel



Charles J. Beck
Deputy Public Counsel



Janis Sue Richardson
Associate Public Counsel

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, Florida 32399-1400

(904) 488-9330

Attorneys for the Citizens
of the State of Florida

**CERTIFICATE OF SERVICE
DOCKET NO. 910163-TL**

I HEREBY CERTIFY that a correct copy of the foregoing has been furnished by U.S. Mail or hand-delivery to the following persons on this 21st day of August, 1992.

Marshall Criser, III
BellSouth Telecommunications,
Inc. (Southern Bell Telephone
& Telegraph Co.)
150 S. Monroe St., Suite 400
Tallahassee, FL 32301

John Hoag
Department of Legal Affairs
Presidential Circle
4000 Hollywood Blvd., Suite 505-S
Hollywood, FL 33021

Tracy Hatch
Jean Wilson
Division of Legal Services
Fla. Public Service Commission
101 East Gaines Street
Tallahassee, FL 32301

David Wells
Robert J. Winicki
William S. Graessle
Mahoney, Adams & Criser, P.A.
3300 Barnett Center
50 North Laura Street
P.O. Box 4099
Jacksonville, FL 32201


Charles J. Beck
Deputy Public Counsel

**CERTIFICATE OF SERVICE
DOCKET NO. 920260-TL**

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail or hand-delivery to the following parties on this 21st day of August, 1992.

Marshall Criser, III
BellSouth Telecommunications,
Inc. (Southern Bell Telephone
& Telegraph Company)
150 S. Monroe St., Suite 400
Tallahassee, FL 32301

Harris B. Anthony
BellSouth Telecommunications,
Inc. (Southern Bell Telephone
& Telegraph Company)
150 W. Flagler St., Suite 1910
Miami, FL 33130

Robin Norton
Division of Communications
Fla. Public Service Commission
101 East Gaines Street
Tallahassee, FL 32301

Doug Lackey
BellSouth Telecommunications,
Inc. (Southern Bell Telephone
& Telegraph Company)
4300 Southern Bell Center
Atlanta, GA 30375

Mike Twomey
Department of Legal Affairs
Attorney General
The Capitol Bldg., 16th Floor
Tallahassee, FL 32399-1050

Angela Green
Division of Legal Services
Fla. Public Service Commission
101 East Gaines Street
Tallahassee, FL 32301

Edward Paschall
Florida AARP Capital City Task
Force
1923 Atapha Nene
Tallahassee, FL 32301

Charlotte Brayer
275 John Knox Rd., EE 102
Tallahassee, FL 32303

Richard D. Melson
Hopping, Boyd, Green & Sams
23 South Calhoun Street
P.O. Box 6526
Tallahassee, FL 32314

Michael J. Henry
MCI Telecommunications Corp.
MCI Center
Three Ravinia Drive
Atlanta, GA 30346

Joseph A. McGolthlin
Vicki Gordon Kaufman
McWhirter, Grandoff & Reeves
522 E. Park Ave., Suite 200
Tallahassee, FL 32301

Rick Wright
AFAD
Fla. Public Service Commission
101 East Gaines Street
Tallahassee, FL 32301

Peter M. Dunbar
Haben, Culpepper, Dunbar
& French, P.A.
306 N. Monroe St.
P.O. Box 10095
Tallahassee, FL 32301

Patrick K. Wiggins
Wiggins & Villacorta, P.A.
P.O. Drawer 1657
Tallahassee, FL 32302

Dan B. Hendrickson
P.O. Box 1201
Tallahassee, FL 32302

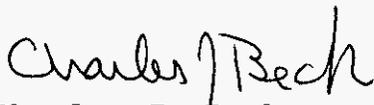
Monte Belote
Florida Consumer Action Network
4100 W. Kennedy Blvd., #128
Tampa, FL 33609

Joseph P. Gillan
J. P. Gillan and Associates
P.O. Box 541038
Orlando, FL 32854-1038

Floyd R. Self
Messer, Vickers, Caparello,
French, Madsen & Lewis, P.A.
P.O. Box 1876
215 S. Monroe St., Suite 701
Tallahassee, FL 32302-1876

Chanthina R. Bryant
Sprint
3065 Cumberland Circle
Atlanta, GA 30339

Michael W. Tye
AT&T Communications of the
Southern States, Inc.
106 East College Avenue
Suite 1410
Tallahassee, FL 32301


Charles J. Beck
Deputy Public Counsel