

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

ORIGINAL
FILE COPY

December 18, 1992

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

Re: Docket No. 920260-TL

Dear Mr. Tribble:

Enclosed for filing in the above-referenced docket on behalf of the Citizens of the State of Florida are the original and 15 copies of the Citizens' Response and Opposition to Southern Bell's Motion to Quash Subpoenas, or, in the Alternative, for a Protective Order.

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 _____
- CAF _____
- CAI ()
- CTR _____
- ETR _____
- LES 1 w/m
- LIN 6
- OPD _____
- ROH _____
- SEC 1
- WAS _____
- OTH Ray

Sincerely,

Charles J. Beck
Charles J. Beck
Deputy Public Counsel

Enclosure

DOCUMENT NUMBER-DATE

14677 DEC 18 1992

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Comprehensive Review of the)
Revenue Requirements and Rate)
Stabilization Plan of Southern)
Bell Telephone & Telegraph Company)
_____)

ORIGINAL
FILE COPY
Docket No. 920260-TL
Filed: December 18, 1992

CITIZENS' RESPONSE AND OPPOSITION TO SOUTHERN BELL'S MOTION TO
QUASH SUBPOENAS, OR, IN THE ALTERNATIVE, FOR A PROTECTIVE ORDER

The Citizens of Florida ("Citizens"), by and through Jack Shreve, Public Counsel, file this response and opposition to the motion to quash subpoenas, or, in the alternative, for a protective order filed by Southern Bell on December 14, 1992.

1. Earlier this year the Citizens served subpoenas on C. J. Sanders, Southern Bell's Vice President for Network-South Operations. He is a Southern Bell officer responsible for outside plant engineering, construction, installation, maintenance and network center operations in the states of Florida and Alabama. We intend to ask Mr. Sanders about the quality of Southern Bell's repair service activities during the incentive plan period and to discuss disciplinary actions taken by Southern Bell against Southern Bell's managers related to the quality of this service. Generally, Mr. Sanders will be questioned about those same areas covered in his deposition conducted on June 17, 1992.

2. We also served a subpoena on C. L. Cuthbertson, Southern Bell's General Manager-Human Resources. Mr. Cuthbertson is responsible for the overall human resources functions of Southern Bell in Florida and Alabama. We intend to question him about Southern Bell's disciplinary actions taken with respect to the quality of its repair service activities during the incentive period. The areas to be covered by Mr. Cuthbertson are also those generally discussed in his deposition conducted on June 17, 1992.

3. According to the prehearing officer's additional order on prehearing procedure issued November 11, 1992, evidence related to dockets 900960-TL and 910163-TL will not be incorporated into the main hearings in this docket beginning January 25, 1993. However, on November 23, 1992, the Citizens moved the full Commission to review the prehearing officer's order. That motion specifically asked the full Commission to include in this docket quality of service issues, including matters about Southern Bell's sales activities and repair activities. Until the full Commission completes its review of the prehearing officer's order, Southern Bell's motion is not ripe.

4. Even if the full Commission does not grant that relief requested by the Citizens, the testimony of the two subpoenaed witnesses is relevant to issues already being heard during the main hearings in this docket beginning on January 25, 1993. Quality of service is specifically included as issue 31 in this case, and

issue 9a asks whether a penalty should be imposed for poor quality of service. Both Mr. Sanders and Mr. Cuthbertson have information relevant to these issues.

5. The Citizens know of no instance where this Commission has refused to allow parties to introduce testimony relevant to issues being heard by the Commission. In fact, Commission rule 25-22.048(2) states that every party has the right to present evidence relevant to the issues. The order of the prehearing officer should not, nor can not, be interpreted in a way that would violate this rule with respect to the upcoming hearings during January and February in this docket. Thus, even if the full Commission does not grant the relief requested in our motion filed November 23, 1992, the testimony of the two subpoenaed witnesses must still be allowed because it is relevant to issues that are being addressed in the hearings beginning on January 25, 1993.

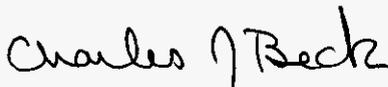
6. The Citizens note that the Commission staff filed testimony addressing the quality of service reports filed at the Commission by Southern Bell. See prefiled testimony of Donald B. McDonald, page 3, beginning at line 9. Both Mr. Sanders and Mr. Cuthbertson have information related to the accuracy of those reports. It would be incongruous to allow the staff to address these matters, but at the same time prohibit other parties from introducing evidence related to the same matters.

7. Finally, Southern Bell claims that the subpoenas are burdensome because the two witnesses might have to stay in Tallahassee more than a day. To alleviate this concern, we propose that these two witnesses be scheduled as the first witnesses in the case and that they be excused after they testify.

WHEREFORE, the Citizens oppose the motion to quash subpoenas, or, in the alternative, for a protective order filed by Southern Bell on December 14, 1992, and respectfully request the Commission to deny the relief requested by Southern Bell.

Respectfully submitted,

Jack Shreve
Public Counsel


Charles J. Beck
Deputy Public Counsel

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

(904) 488-9330

Attorneys for the Citizens of
the State of Florida

**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 18th day of December, 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

Laura L. Wilson
Messer, Vickers, Caparello,
Madsen & Lewis, P.A.
P.O. Box 1876
Tallahassee, FL 32302-1876

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

The American Association of
Retired Persons
c/o Bill L. Bryant, Jr.
Foley & Lardner
215 S. Monroe St., Suite 450
P.O. Box 508
Tallahassee, FL 32302-0508

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

Lance C. Norris, President
Florida Pay Telephone Assn., Inc.
8130 Baymeadows Circle, West
Suite 202
Jacksonville, FL 32256

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

Cecil O. Simpson, Jr.
Peter Q. Nyce, Jr.
Regulatory Law Office
Office of the Judge Advocate
General
Department of the Army
901 North Stuart St.
Arlington, VA 22203-1837

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

C. Everett Boyd, Jr.
Ervin, Varn, Jacobs, Odom & Ervin
305 S. Gadsden Street
P.O. Drawer 1170
Tallahassee, FL 32302

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

Florida Hotel and Motel Assn.
c/o Thomas F. Woods
Gatlin, Woods, Carlson
& Cowdery
1709-D Mahan Drive
Tallahassee, FL 32308

Douglas S. Metcalf
Communications Consultants, Inc.
1600 E. Amelia St.
Orlando, FL 32803-5505

Benjamin H. Dickens, Jr.
Blooston, Mordkofsky, Jackson
& Dickens
2120 L Street., N.W.
Washington, DC 20037

Charles J. Beck
Charles J. Beck
Deputy Public Counsel