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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' Motion for Ruling on the Public Record Status of the Prefiled Testimony and Exhibits of Dr. Mark N. Cooper and R. Earl Poucher.

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

Sincerely,

Charles J. Beck

Charles J. Beck
Deputy Public Counsel

Enclosure

- ACK ✓
- ARA 3
- ADP 1
- OTB
- CMH
- OTR
- ESG
- LES LW/ten
- LIN 6
- OPC
- RCH
- SEC 1
- WAS
- OTA

DOCUMENT NUMBER-DATE

14678 DEC 18 1992

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL
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Comprehensive Review of the)	
Revenue Requirements and Rate)	Docket No. 920260-TL
Stabilization Plan of Southern)	Filed: December 18, 1992
Bell Telephone & Telegraph Company)	
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MOTION FOR RULING ON THE PUBLIC RECORD STATUS OF THE PREFILED TESTIMONY AND EXHIBITS OF DR. MARK N. COOPER AND R. EARL POUCHER

The Citizens of Florida ("Citizens"), by and through Jack Shreve, Public Counsel, request the Commission to rule whether any portion of the testimony and exhibits of Dr. Mark N. Cooper or R. Earl Poucher filed in this case on November 16, 1992 should be exempt from public disclosure.

1. More than four weeks ago the Citizens filed testimony by six witnesses in this case. The testimony of James A. Rothschild was served on all parties, but the testimony of our five other witnesses could not be served on the parties at that time because the testimony was based in part on documents covered by motions for temporary protective orders filed by Southern Bell.

2. By letter dated December 14, 1992 Southern Bell informed the Citizens it would release its claim of confidentially with respect to the testimony and exhibits filed by Dr. Marvin Kahn, Mr. Randy Allen, and Mr. Michael Brosch. Accordingly, we are serving copies of their testimony on all parties today.

3. However, Southern Bell refuses to make a specific claim with regard to the confidentiality of the prefiled testimony and exhibits of Dr. Mark N. Cooper and R. Earl Poucher while their motion to strike that testimony is pending.¹ At the same time, Southern Bell insists that all of the testimony and exhibits of both of these witnesses continue to be exempt from public disclosure. Southern Bell states that the testimony and exhibits contain information covered by previous motions for temporary protective orders filed by Southern Bell, but never ruled upon.

4. Southern Bell's motion to strike the testimony of Dr. Cooper and Mr. Poucher has nothing to do whatsoever with the issue of their status under the public records law. As it stands now, Southern Bell is putting this Commission in the untenable position of ruling on striking testimony without allowing the public to know anything about the substance of the testimony Southern Bell would strike.

5. Commission rule 25-22.006 (5)(c) states that if the information is to be used in a proceeding before the Commission, the utility must file a specific request for a protective order.

¹ Southern Bell moved to strike the testimony of these witnesses in this docket. The Citizens opposed that motion, stating that the testimony is directly relevant to the issues in this docket on quality of service and on incentive regulation. A Commission rule allows parties to present evidence relevant to issues in a docket.

The testimony and exhibits have been used; they have been on file at the Commission for more than a month.

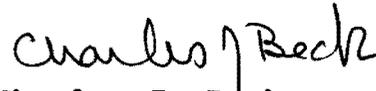
6. The Commission should not allow Southern Bell to hold the status of filed testimony under the public records law as a hostage to its motion to strike. No matter how the Commission rules on Southern Bell's motion, the testimony will still be part of the record, at least for the purpose of an appeal. But even if the Commission ultimately decides that the testimony will only be heard in either docket 910163-TL or 900960-TL, under the prehearing officer's additional order on prehearing procedure there will ultimately be supplemental hearing dates in this docket to consider the effect of this testimony on this docket. One way or the other, the Commission must rule whether any portion of the testimony and exhibits already filed will be exempt from public disclosure.

7. The Citizens do not believe that any of the testimony or exhibits of either Dr. Cooper or Mr. Poucher contain information that is confidential under Section 364.183, Florida Statutes (1991).

WHEREFORE, the Citizens respectfully request the Commission to rule whether any portion of the testimony and exhibits of Dr. Mark Cooper or R. Earl Poucher filed in this case on November 16, 1992 should be exempt from public disclosure.

Respectfully submitted,

Jack Shreve
Public Counsel



Charles J. Beck
Deputy Public Counsel

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Attorneys for the Citizens of
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**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.

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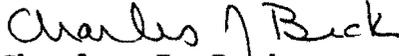
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